This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

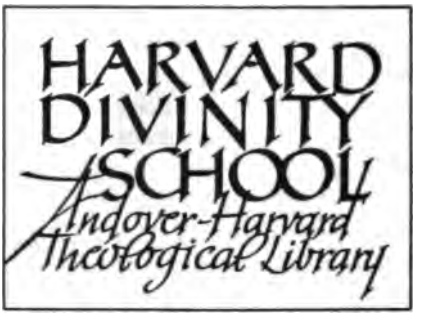
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`


HARVARD
DIVINITY
SCHOOL
Andover-Harvard
Theological Library

THE

WHOLE WORKS

OF

THE RIGHT REV. JEREMY TAYLOR, D.D.

LORD BISHOP OF DOWN, CONNOR, AND DROMORE:

WITH

A LIFE OF THE AUTHOR,

AND

A CRITICAL EXAMINATION OF HIS WRITINGS,

BY

REGINALD HEBER, A.M.

CANON OF ST. ASAPH, RECTOR OF HODNET, AND LATE FELLOW OF ALL SOULS' COLLEGE, OXFORD.

IN FIFTEEN VOLUMES.

VOL. XIV.

LONDON:

OGLE, DUNCAN, AND CO. 37, PATERNOSTER ROW, AND 295, HOLBORN;

AND RICHARD PRIESTLEY, 143, HIGH HOLBORN;

J. PARKER, OXFORD; AND DEIGHTON AND SON, CAMBRIDGE.

1822.

S.C.R.
BR
75
.T2
A2
1822
v.14

THE

WHOLE WORKS

OF THE

RIGHT REV. JEREMY TAYLOR, D.D.

LORD BISHOP OF DOWN, CONNOR, AND DROMORE.

VOLUME XIV.

CONTAINING

THE CONCLUSION OF THE RULE OF CONSCIENCE; THE DIVINE INSTITUTION AND NECESSITY OF THE OFFICE MINISTERIAL; AND, RULES AND ADVICES TO THE CLERGY.

CONTENTS

OF

THE FOURTEENTH VOLUME.

THE RULE OF CONSCIENCE.

BOOK III.—CHAP. IV.

CONTINUED.

OF THE POWER OF THE CHURCH IN CANONS AND CENSURES, WITH THEIR OBLIGATIONS AND POWERS OVER THE CONSCIENCE.

RULE IX. PAGE

Excommunication, inflicted upon a light Cause, binds externally, but not internally; but if it be inflicted upon an unjust Cause, it binds not at all 1

RULE X.

It is not lawful to communicate with those, whom the Church hath, by a just Sentence, excommunicated 9

SECTION III.

Of Canons ecclesiastical 16

RULE XI.

The Canons of the Apostles, which are of Order and external Government, do oblige the Conscience by being accepted in several Churches, not by their first Establishment 17

RULE XII.

All those Rituals, which were taught to the Church by the Apostles concerning Ministries, which were of divine Institution, do oblige all Christendom to their Observation 21

RULE XIII. PAGE

In the Rules which the Apostles gave to their Churches in Things indifferent, the Church hath a Liberty; but it is not used but for great Reason and great Necessity, and for the Edification of the People committed to their Charge 26

RULE XIV.

The Canons of the ancient general and provincial Councils are then Laws to the Conscience, when they are bound upon us by the Authority of the respective Governors of Churches 47

RULE XV.

The laudable Customs of the Catholic Church, which are in present Observation, do oblige the Conscience of all Christians 49

RULE XVI.

The Decrees and Canons of the Bishops of Rome oblige the Conscience of none but his own Subjects 67

SECTION IV.

Of the Matter and Conditions of ecclesiastical Laws required to the Obligation of Conscience 73

RULE XVII.

Ecclesiastical Laws, that are merely such, cannot be universal and perpetual 73

RULE XVIII.

Ecclesiastical Laws of Ceremonies and Circumstances of external Observances, do not bind the Conscience beyond the Cases of Contempt and Scandal 90

RULE XIX.

Ecclesiastical Laws must be charitable and easy; and, when they are not, they oblige not 94

RULE XX.

Ecclesiastical Laws must ever promote the Service of God and the Good of Souls; but must never put a Snare or Stumbling-block to Consciences 106

SECTION V.

Of ecclesiastical Laws of Faith, or Articles of Confession 150

RULE XXI.

The Catholic Church is a Witness of Faith, and a Record of all necessary Truths; but not the Mistress and Ruler of our Creed; that is, cannot make any Laws of Faith 150

RULE XXII. PAGE

The Decrees of general Councils are of great Use in the Conduct of Conscience, but not the proper Measure, or last Determination, of Matters of Belief 154

RULE XXIII.

Subscription to Articles and Forms of Confession in any particular Church, is wholly of political Consideration 158

CHAP. V.

OF LAWS DOMESTIC; OR THE POWER WHICH FATHERS OF FAMILIES HAVE TO BIND THE CONSCIENCES OF THEIR RELATIVES.

RULE I.

Children are bound to obey the Laws and Commandments of their Parents in all Things domestical, and in all Actions personal relating to the Family, or done within it 163

RULE II.

Fathers have a Power to chastise their offending Children, but not a Power of Life and Death 170

RULE III.

A Father hath Power over the Goods and Persons of his Children, so as to be maintained by them 174

RULE IV.

The Father's Power does not extend to Matter of Religion, and Persuasions of Faith 178

RULE V.

The Father's Power over the Children can remit an Injury done to them, without their Leave or Consent 181

RULE VI.

A Father's Authority cannot abide, after his Death; but the Son's Piety to his Father must, and may, pass upon him some indirect Obligations 182

RULE VII.

Neither the Father's Authority, nor the Son's Piety, can oblige them to do an Action against the Laws of God, or of the Father and our just Superior 185

RULE VIII.

It is not lawful for Children to enter into any lasting Course of Life, against the Will or Approbation of their Parents 191

CHAP. VI.

OF THE INTERPRETATION, DIMINUTION, AND ABROGATION, OF HUMAN LAWS.

SECTION I. PAGE

Of Equity 223

RULE I.

When the Letter of the Law is burdensome and unjust, the Meaning and Charity of the Law do only oblige the Conscience 223

SECTION II.

Judicial Interpretation 237

RULE II.

When the Power that made the Law, does interpret the Law, the Interpretation is authentical, and obliges the Conscience as much as the Law; and can release the Bond of Conscience so far as the Interpretation extends, as much as if the Law were abrogated 237

SECTION III.

A contrary or ceasing Reason 242

RULE III.

A Law made for a particular Reason, when the Reason wholly ceases, does no longer oblige the Conscience 242

SECTION IV.

Dispensation 261

RULE IV.

The Legislator hath Authority to dispense in his own Laws, for any Cause, that himself shall prudently judge to be reasonable, so that no distinct Interest be prejudiced or injured 261

SECTION V.

Commutation 265

RULE V.

The same Power that can dispense, can also commute, a Duty; and as, in the first, it eases, so, in the latter, it binds, the Conscience 265

SECTION VI.

Contrary Customs 267

RULE VI.

A Custom can interpret a Law, but can never abrogate it without the Consent of the supreme Power 267

SECTION VII.

Abrogation 273

RULE VII.

Abrogation of a Law by a competent, that is, by the supreme Power, may be just and reasonable, though the Law itself be neither unreasonable or unjust 273

BOOK IV.

OF THE NATURE AND CAUSES OF GOOD AND EVIL, THEIR LIMITS AND CIRCUMSTANCES, THEIR AGGRAVATIONS AND DIMINUTIONS.

CHAP. I.

OF THE EFFICIENT CAUSES OF ALL HUMAN ACTIONS, GOOD AND EVIL.

SECTION I.

Of Choice and Election, voluntary and involuntary 278

RULE I.

An Action is neither good nor evil, unless it be voluntary and chosen.. 278

RULE II.

The virtual and interpretative Consent of the Will is imputed to Good or Evil 305

RULE III.

The Act of the Will alone, although no external Action or Event do follow, is imputed to Good or Evil by God and Men 344

RULE IV.

An involuntary Effect, proceeding from a voluntary Cause, is imputed to the Agent, as if it were voluntary and directly chosen 356

SECTION II.

Of the Diminutions of voluntary Actions: and first, of Ignorance and its Influence into the Morality of human Actions 362

RULE V.

Nothing is good or bad, but what we know, or concerning which we can deliberate 362

RULE VI. PAGE

Ignorance does always excuse the Fact, or diminish the Malignity of it, or change the Kind and Nature of the Sin 372

SECTION III.

Of Fear and Violence, and how these can make an Action involuntary 389

RULE VII.

Fear that makes our Reason useless, and suffers us not to consider, leaves the Actions it produces, free from Crime, even though itself be culpable 389

CHAP. II.

OF THE FINAL CAUSE OF HUMAN ACTIONS; AND ITS INFLUENCE ON CAUSALITY OF GOOD AND EVIL.

RULE I.

In every good Action the Means and the End must be symbolical: so that, 1. a good Action done for an evil End, and, 2. an evil Action done for a good, are alike criminal 398

RULE II.

To do an Action of itself lawful, for temporal Regards, for Ends of Profit, Pleasure, or Honour, is not unlawful, except it be accidentally 403

RULE III.

The End and Intention of a Law is under the Commandment, as much as the Action itself commanded in order to the End 411

"Clerus Domini;" or, a Discourse of the Divine Institution, Necessity, Sacredness, and Separation, of the Office Ministerial; together with the Nature and Manner of its Power and Operation: written by the special Command of King Charles I. 415

SECTION I.

Ministers of Religion have, in all Ages, been distinguished by peculiar Honours 417

SECTION II. PAGE

The Ministers of Christ receive the Power of remitting or retaining Sins 427

SECTION III.

The Ministers of Christ are commissioned to preach the Gospel 431

SECTION IV.

The Ministers of Christ are commissioned to baptize 443

SECTION V.

The Ministers of Christ stand between God and the People, in administering the Eucharist 452

SECTION VI.

The Ministers of Christ derive their Power from God 461

SECTION VII.

The Ministry of the Gospel sanctifies the Person of the Minister 466

SECTION VIII.

No Man, in these Days of ordinary Ministry, must look for, or pretend to, an extraordinary Calling 479

Rules and Advices to the Clergy of the Diocess of Down and Connor, for their Deportment in their Personal and Public Capacities, given at the Visitation of Lisnegarvey 489

1. Personal Duty 491
2. Of Prudence required in Ministers 494
3. The Rules and Measures of Government to be used by Ministers in their respective Cures 495
4. Rules and Advices concerning Preaching 498
5. Rules and Advices concerning Catechism 503
6. Rules and Advices concerning the Visitation of the Sick 504
7. Of ministering the Sacraments, public Prayers, and other Duties of Ministers 505

THE

RULE OF CONSCIENCE.

BOOK III. CHAP. IV.—*Continued.*

OF THE POWER OF THE CHURCH IN CANONS AND CENSURES, WITH THEIR OBLIGATIONS AND POWERS OVER THE CONSCIENCE.

RULE IX.

Excommunication, inflicted upon a light Cause, binds externally, but not internally; but if it be inflicted upon an unjust Cause, it binds not at all.

1. THIS latter part of the rule is evident and consented to by all. For in this the civil and ecclesiastical power differ. The civil power, if it condemns the innocent, hath effect upon him, and does afflict or put him to death: but the ecclesiastical power does nothing, unless the man hath done the mischief to himself. For God having undertaken to verify what the church does, it must be supposed that the church must do right, else God will not verify it; and then it signifies nothing, but that the governors ecclesiastical have sinned. "Ejiciunt oves qui contra justitiam de ecclesia separant," saith St. Jerome[a]; "They that, against right, cast a man from the church," they are ill shepherds, "and drive the sheep" from their folds where Christ loves to see them: and therefore Alexander II.[b] says, that "unjust excommunications are not to be slighted and neglected;" and Gerson[c] says, 'it is honourable to the church, that such a prelate should be resisted to his face.' But this in case of injustice and manifest abuse: such are those excommunications in

[a] In Jerem. cap. xxiii. [b] 24. q. 1. c. Audivimus.
[c] De Vita Spirit. an. Lect. 2. ad em.

the 'Bulla cœnæ Domini,' in which those persons who do their duty, who do not consent to the errors and abuses of the church of Rome, who read good books that discover their horrible impieties, are excommunicated: it is 'brutum fulmen;' it is harsh as the noise of peacocks, but does no harm to them that are intended.

2. But now, in the other part of the rule, there is difficulty, and it is occasioned by a discourse of St. Leo[d]; "Let not the communion be, easily or lightly, denied to any Christian, nor at the pleasure of every angry priest; because the mind of the avenger ought, unwillingly and with a kind of grief, to proceed to the infliction of vengeance, even upon a great guilt. For we have known some, for slight actions and words, excluded from the grace of the communion,—and a soul for which the blood of Christ was shed, by the infliction of this so severe a punishment, wounded, and, as it were, disarmed and spoiled of all defence, exposed to the assaults of the devil, that it might be easily taken." By which words St. Leo seems to say, that he, who, for a trifling cause, is excommunicate, does nevertheless feel all the evils of that greatest censure. He says well and true: but he does not say, that he is separate from God,—that he shall perish everlastingly,—that God will in heaven verify what is done upon earth; but he, reproving this impiety, that the greater excommunication should be inflicted for trifles, tells the real evils which do follow: for the excommunicate, being separate from the communion, denied the prayers of the church, banished from the communion of saints, is divested of all these excellent helps and spiritual defensatives against the power of the devil. Now this is very true, though the case were wholly unjust; and much more, if the cause be something, though not sufficient. 'De facto' the man is deprived of the helps of the church, and the advantages of holy ordinances: and though God will, if the man be a good man and devout, hear his private prayers, and supply him with secret strengths, and in his behalf rebuke the devil; yet it is a worthy cause of complaint in St. Leo, to consider that this evil was done for little things, and that, for so small occasions, God should be put to his extraordinary way, and the man be deprived of the blessings of the ordinary.

[d] In his 93d epistle.

3. But whether this sentence, so slightly inflicted, do really bind the soul before God, is a question which Origen[e] inquired into, but durst not affirm it; but concludes that it obliges in the church and before men: for whether it obliges before God or no, "Deus scit; nos autem pronunciare non possumus, secundum quod scriptum est, 'Nolite judicare,'" "God only knows, but we must not judge." But yet if it be his unhappy lot to fall into such a calamity, "factum valet, fieri non debuit;" the ecclesiastical ruler did very ill in it, yet the man is bound to the church. "Qui ergo in peccato levi correptus—non se emendat, nos quidem sic eum debemus habere, quasi publicanum, et ethnicum, abstinentes ab eo, ut confundatur;" "He therefore that is taken and excommunicate for a small fault, and will not amend, we must esteem him as a heathen and a publican, that he may be ashamed. Indeed the church hath put a heavy and an unequal load upon such a person, and hath erred greatly; for no man is to be separate from the church of God, but he that separated himself from God, and hath left his duty: but therefore if the church do excommunicate him, whose action or words though it be faulty, yet it can consist with the state of a good man, and does not destroy the love of God,—the censure was too heavy as to the external, and false as to the internal; for the man is not fallen from God, but does communicate with the head, and continues to receive of the spirit of Christ.

4. But yet even such a man is bound externally: for this is the meaning of that famous saying of St. Gregory[f]; "Pastoris sententia etiam injusta timenda est;" "The sentence of a bishop, though it be unjust, is to be feared;" that is, though it be in a cause, that is not great and competent enough, but if it be in a light matter, yet it is to be feared; not only because the man is deprived of the prayers and communions of the church (which, though it happen to an innocent person, is a great evil, and therefore is to be feared though it be in all senses unjust); but also, because it binds the man that is deprehended even in a light fault, to submit to the judgment and satisfactions of the church. The burden is very great, and ought not to have been imposed; but when it is, it must be suffered, because no repentance can be too great for any

[e] Tract. 6. in Matt. [f] In Evangel. homil. 26.

sin: and although the bishop made a false judgment concerning the man, and he does not stand so before God as before the church, that is, for his first little offence; yet being censured and unfortunate, if he refuses to obey that, which is indeed too much to be imposed, but will do him no hurt, it is not his first little sin, but his great contempt, that is to be accounted for before God with the greatest severity.

5. But then if it be inquired, in what cases only excommunication may be lawfully inflicted; the answer is easy: but I choose to give it in the words of the fathers, because there is in this case reason and authority too. "Ubi peccatum non est evidens, ejicere de ecclesia neminem possumus, ne forte eradicantes zizania, eradicemus simul cum ipsis etiam triticum:" so Origen[g]: "Unless the fact be evident, no man must be excommunicate, for else we may peradventure root up the wheat with the tares."—But that is not enough.

6. No man must be excommunicate but he that is "peccator gravis et scandalosus," "a grievous and a scandalous sinner;" so St. Gregory[h]: and like to this is that of Aristotle; *Διαλυτέον οὐ πᾶσιν, ἀλλὰ τοῖς ἀνιάτοις διὰ τὴν μοχθηρίαν*, "We must not separate from every sinner; but from the intolerable and malicious."—For what should a man proceed to violent remedies, when a gentle application will make the cure? and, for a trifling cause, to cut a man off from the communion of the church, is to do as the man in the fable, that, espying a fly upon his neighbour's forehead, went to put it off with a hatchet and struck out his brains. And therefore the fathers in the council of Worms[i] decreed, "Ut nullus sacerdotum quenquam rectæ fidei hominem pro parvis et levibus causis à communione suspendat: præter eas culpas pro quibus antiqui patres arceri jusserunt aliquid committentes:" "In the infliction of censures the church should follow the practice of the primitive fathers, excommunicating no true believer but for some very grievous fault."

7. Neither is this sufficient of itself: a scandalous sin alone is not enough; for excommunication is the last remedy. "Omnia prius tentanda quam bello experiendum;" When nothing else will do it, then this is to be used: for if

[g] In Josue. homil. 21. [h] In 5. Penit. Psal. [i] Can. 2.

the man will be amended by private correction, or by public admonition, if he be ready to hear his brother, or to obey the church,—why should he be esteemed as a heathen man and a publican? "Si non audierit ecclesiam," is the condition of using the keys; "If he will not hear the church:"—so it is in the charter; if, being publicly convict and reproved by the bishop, he will not be humbled, but remains incorrigible and perseveres in his sin, then he is to be excommunicated and smitten with the anathema. Like to this is that of Chrysippus: Προσήκει τὰ μὲν ὅλως παραπέμπεσθαι, τὰ δὲ μικρᾶς ἐπιστροφῆς τυγχάνειν· τὰ δὲ ἐπὶ μεῖζον, τὰ δὲ ὅλως διαλύσεως ἀξιοῦσθαι. "Some things are to be turned from, with our head a little aside; and from some things we must run away: some things are more earnestly to be avoided; and from others we must be parted for ever." So St. Gregory in the place above cited. "Spirituali gladio superbi et contumaces necantur, dum de ecclesia ejiciuntur;" so St. Cyprian[k]: "The proud and contumacious are slain by the spiritual sword, when they are thrown out of the church."—"Inobediens truncatur," is St. Jerome's[l] expression; "He that is rebellious or disobedient to the discipline and correction of the church, is to be cut off."

8. Now all these must be joined together. If the fact be not notorious or proved, a man must not be so severely smitten we know not why. And if the fact be evident, yet, unless it be great, it deserves not the biggest punishment. For the judge is cruel, and not just, that puts a man to death with torments, for spitting in his parlour: and the judgment of the church, being nothing else but an effective and terrible declaration of the judgment of God, must not be exterminating and final, for things of little concernment,—but according to the wisdom which we see, and the mercy which we hope for. And after all, if it be evident and great, yet the last remedy must not be used at first: and a man will not have his arm cut off for a felon upon his finger, or the gout in his wrist, or an ulcer that can, by any other means, be cured. But when in a great pestilence and danger of infection, there is no other remedy; when the fire rages desperately, and can by no other means be stopped; then pull the house down, and separate the infected from the city; he is fit for nothing but charnel-houses, and the society of the dead.

[k] Lib. 1. ep. 11. [l] Epist. 1.

9. This caution Gerson[m] instances in pecuniary matters. For, saith he, not every contumacy against the orders of courts ecclesiastical is to be punished with this death. If it be in matters of faith or manners, then the case is competent; but when it is a question of money and fees, besides that the case is full of envy and reproach, apt for scandal and to bring contempt upon the church, the church hath no direct power in it; and if it have by the aid of the civil power, then for that a civil coercion must be used. It is certainly unlawful to excommunicate any man for not paying the fees of courts; for a contumacy there is an offence against the civil power, and he hath a sword of his own to avenge that. But excommunication is a sword to avenge the contumacy of them, who stubbornly offend against the discipline of the church, in that, wherein Christ hath given her authority,—and that is, in the matters of salvation and damnation immediate, in such things where there is no secular interest, where there can be no dispute, where the offender does not sin by consequence and interpretation, but directly and without excuse. But let it be considered, how great a reproach it is to ecclesiastical discipline, if it be made to minister to the covetousness or to the needs of proctors and advocates; and if the church shall punish more cruelly than civil courts for equal offences: and because she hath but one thing to strike withal, if she, upon all occasions, smites with her sword, it will either kill too many, or hurt and affright none at all.

10. Spiritual censures must not be inflicted for temporal causes, in questions of right and secular concernment, for which the civil sword is sharp enough and proper. In the church of Rome, it hath been very usual to use excommunications for the discovery of thefts, or the manifestations of secret actions. Divers examples of which are in the decretals and later canons of the church; but not till the church had been extremely corrupted both in doctrine and manners. But this advice is the same almost with the former, and relies upon the same reason. But who please to see more of it, may see it in Gerson[n].

11. As a corollary to these advices, I am to add one thing,

[m] De Vita Spirit. Anim. lect. 4. corol. 7.
[n] Ibid. et serm. in concil. Rhemens. partit. 2. consid. 2. provis. 2.

that is of great use and consideration, and that is,—That when a law is made, that whoever shall commit such a fact, shall be 'ipso facto' excommunicate,—it must never be understood of the greater and proper excommunication; for if it be, it is unlawful and it is ridiculous. For the abscission from the church is not to be used but after all other remedies: when the crime is delated or notorious, and the person called, when he hath been admonished and reproved, and called to repentance,—if after all he refuses and rebels, then he is to be cut off, else not: and therefore no man is 'ipso facto' cut off. The offence alone deserves it just as it deserves damnation: but because God is pleased graciously to call a sinner to repentance, and cuts him not off, till he hath refused his gentleness and forbearance, the church must do so too, following the economy of God; for if the church kills on earth, and God saves in heaven, it is clear she hath not rightly used her power, and therefore, must not kill at the first dash.

12. If therefore it be inquired, 'whether all such sentences in law, which declare a man to be, in certain cases, 'ipso facto' excommunicate, be unlawful,' the archbishop of Spalato, who is fierce against them, answers [o] affirmatively and confidently, and disputes well against them: but his reasons are overvalued by him, and are not demonstrative; for they all rely upon this proposition,—That no man can be tied to be executioner of any sentence against himself; which I have proved to be false [p]. What then do such sentences effect more than others which are comminatory, and threaten the sentence only to be inflicted by the judge if the crime be delated and proved? Gerson, saith he, learned thus to answer from his master,—"That the judge, in such cases, when the fact is proved or confessed, may pass to sentence without any further judicial process; which in other cases he cannot do."—But Gerson and his master would fain have been at a new thing, but they could not hit it right. For whether any such thing was effected or no, or whether any more was intended, is not a matter of conscience; for this whole proceeding is not the ministry of the keys, but wholly a human invention, done with great reason, and is of prudent conduct, and warranted by precedents in Scripture: and since in those places, where many such laws are made and used it is certain

[o] Lib. 5. de Rep. Eccles. cap. 9. n. 23, 24. [p] Chap. 2. rule 2.

that the lawgivers intend more, and more is practised, it is not true what Gerson's master told him,—that these laws produced nothing but a power to the judge to proceed summarily. And therefore, he neither answered right in the point of law, nor in the case of conscience; and yet he said well, that such sentences of excommunication do not oblige others to abstain from the society of the excommunicate. It is true, but not for his, or for the reasons of the learned archbishop of Spalato; but for this reason,—because these sentences do not intend to involve the offender in the greater excommunication, which is not to be inflicted but upon him, that hath sinned grievously, and, after admonition, refuses to amend. For if the greater excommunication were intended, the laws were unlawful, and the sentence unjust. For a crime in manners is like an error in faith: this, without pertinacy, is not heresy, —and that, without contumacy, does not deserve excommunication. But what then?

13. Therefore all those laws, which inflict the sentence of excommunication 'ipso facto,' are to be understood of the lesser excommunication, and they mean thus much only,— That the church declares, that all such criminals are obliged to confess their sin, to abstain from the communion till they have truly repented, to submit themselves to the judgment of their spiritual guide, to receive discipline at his hand, and manners of emendation; and in this sense the laws are pious and reasonable, useful and of great effect: but how much the conscience of the criminal is by them obliged, is a secret of which we know nothing; but this we know, that where such laws are used and understood, without such submission and amends, a man that desires to be good, can have no peace of conscience.

14. The like is to be said of those ancient canons of councils, which, for light causes, impose and decree the sentence of excommunication. Thus the fourth council of Carthage[q] decrees him to be excommunicate, "qui, sacerdote verbum faciente in ecclesia, egressus de auditorio fuerit," "who shall go out of the church before the sermon be ended."—Very many of the same nature might be produced, but they all mean the same thing; that he that is delinquent in the instance, when he is delated and convict, shall be separate

[q] Cap. 24.

awhile from the communion (for that was the discipline of those times), and thrust into the place of public penitents.

RULE X.

It is not lawful to communicate with those, whom the Church hath, by a just Sentence, excommunicated.

1. THAT is, all prohibited communion is unlawful: as if they be driven only from holy offices, then we must not admit such persons to our assemblies; if a civil intercourse be prohibited, that the criminal by shame might be brought to repentance, then that also must be denied him: for if he be bound by the censure of the church, then we also, who are the relatives of that coercion, are tied to do our duty to the church.

2. To which purpose there is an excellent discourse in St. Cyprian[r]: "Wherefore (saith he) although there be some of our colleagues that think it fit to neglect the divine discipline, and do rashly communicate with Basilides and Martialis, this thing ought not to disturb our faith; since the Holy Ghost in the Psalms threatens such persons, saying, 'Thou hast hated discipline and cast my words behind thee: if thou sawest a thief, thou didst go with him, and wert partaker with the adulterers.' He shews that they were consorts and partakers of other men's sins, who were joined with the delinquents. But this thing also the apostle Paul[s] writes, saying, 'They are whisperers, backbiters, haters of God, who knowing the judgment of God, that they which commit such things are worthy of death, not only do the same, but have pleasure in them that do them. For (saith he) they that do such things, are worthy of death.' He manifests and proves that they are worthy of death and shall come to punishment, not only that do evil, but they who consent to them that do evil; who whilst by an unlawful communication they are mingled with evil sinners, and that will not repent, are polluted with the contract of the guilty, and because they are joined in crimes, they are not separated in punishment."

[r] Lib 1. ep. 4. [s] Rom. i. 29—31.

3. The church having so good warrant from Scripture proceeded to add ecclesiastical penalties to those, that would not verify her sentences of just excommunications. For when some had got a trick to meet in houses and pray in conventicles, because they were forbidden, or did voluntarily refuse, to enter into churches,—the council of Antioch[t] took notice of it, and forbade all such communions and assemblies and intercourses under the pain of excommunication. But this was decreed by the canons[u] commonly called Apostolical, "Si quis cum excommunicato saltem in domo simul oraverit, iste communione privetur," "He that prays with an excommunicate person, so much as privately in a house, let him be deprived of the communion."—The same we find often in the ancient epistles of the popes; in the second[x] and in the fourth[y] council of Carthage, in the first council of Toledo[z], and in the synod at Auxerre[a] in France, in the first council of Bracara[b], in the council of Touraine[c], and the council of Vernet[d].

4. But this is to be understood with one caution, and to be reduced to practice by another. (1.) Although the church excommunicates them, that communicate with excommunicates, yet it is always to be understood, that the partners are only smitten with a lesser excommunication, and obliged only externally, not internally. For there may be many cases very favourable, in which an innocent person may innocently communicate with a heathen and a publican: and therefore, in such cases, in which a man does not take part against, or, directly or by intention, despise the church, or give countenance, strength, or increment, to the sin of the excommunicate, but with simplicity pursues other lawful purposes, and designs nothing of these, he is only tied to give satisfaction to the church: but is not guilty before God. For the places of Scripture, quoted by St. Cyprian above mentioned, are only spoken of such persons, who, by their society, approve, and in their hearts do consent to, such crimes. But every man that goes along with them in their journey, or in their merchandise, does not go along with them in their crime; and yet if they be forbidden to go along

[t] Cap. 2. [u] Can. 10. aut. 11. [x] Cap. 7.
[y] Cap. 7.3. [z] Cap. 15. [a] Cap. 39.
[b] Cap. 33. [c] Cap. 8. ep. 21. [d] Cap. 9.

the road with them, and yet will do it, they may justly be presumed to go along in their consent and approbation: and therefore the church does well to forbid such to come to her communions, till she be satisfied,—that is, till the contrary does appear, or amends be made. But because, in many cases, the contrary can be made to appear, and in more cases, the contrary is true, whether it can be made to appear or no,—therefore, in such cases, it must be understood, that the companion of the excommunicate is only bound in the face of the church by such censures, and not in the court of heaven. And to this accords that of St. Leo [e]; "Certainly when any such cause does happen, that, for the heinousness of some crime committed, any one is justly deprived of the communion, he alone ought to be punished, who is involved in the guilt: 'nec particeps debet esse supplicii, qui consors non docetur fuisse commissi,' 'neither is he to partake of the punishment, that was not a consort of the fact.'"

5. (2.) This rule is to be reduced to practice, with this caution,—that the church intends not to forbid any such intercourse or communion, to which we stand pre-obliged by the law of nature, or any law of God, or of the civil supreme power, from which the church cannot absolve us. The sentence of excommunication does not enjoin a son not to help his aged father, nor the physician to give him physic in his sickness, nor the tenants to pay their rent, and talk with their landlord about his and their necessities, nor the feudatory to pay homage to his lord: to prohibit natural or civil duties, the ecclesiastical power hath nothing to do. If the civil power hath forbidden a civil duty, he may, and then the subject is civilly bound in all things but where God hath commanded a duty. For even the king cannot command a wife not to pay her duty to her husband, nor a child to his mother. To these they are bound by God, though they die for it; and if the prince be angry, yet God is well pleased.

6. For although the supreme power can forbid even an action, that is of itself good and pious, and we are in the proper circumstances bound to obey him, and in this case also obedience is better than sacrifice; yet when the piety is necessary, and not under choice and counsel, but under a com-

[e] Epist. 93.

mandment, the king and the bishop singly or conjunctly have no power to forbid it.

Οὐ γάρ τι νῦν τε κἀχθὲς, ἀλλ' ἀεί ποτε
Ζῇ ταῦτα, κοὐδεὶς οἶδεν ἐξ ὅτου 'φάνη·

"For these things are not of to-day or yesterday, but of an eternal rectitude, and no man knows when they did begin." For upon this account Antigona in Sophocles[f] defends the fact of burying her dead brother against the king's commandment. Even the gods themselves, that is, the great rulers of the world, are subject to these laws. So Euripides[g]:

Ἀλλ' οἱ θεοὶ σθένουσι, χὠ κείνων κρατῶν
Νόμος· νόμῳ γὰρ τοὺς θεοὺς ἡγούμεθα,
Καὶ ζῶμεν ἄδικα καὶ δίκαι' ὡρισμένοι.

This law rules them that rule the world: and therefore the Greek tragedy[h] does rarely well call these laws ὑψίποδας, because all men and all things are under their feet. It is, as Pindar[i] calls it,

Νόμος ὁ πάντων βασιλεὺς
Θνατῶν τε καὶ ἀθανάτων,

"a law that is the king of all things, mortal and immortal." And therefore excommunications, though verified by the secular power, cannot forbid the necessary and dutiful intercourses of relations, or the issue of any duty commanded by a former obligation in the law of God.

7. But if the church will take her measures from the words of her commission,—which as they are her only warrant, so they are the best rule,—the external effect of excommunication is this only, that we esteem him, that refuses to hear the church, as a heathen and a publican. If we account and use him so, it is bad enough; but then we have no warrant to use him worse. And then as we eat and drink, and talk, and buy and sell, with heathens, without sin,—why also not with excommunicates, this precept notwithstanding? I say, 'this precept notwithstanding,' for it is more than an indulgence or a leave to use them so; it is a commandment: the rulers and stewards of God's household are tied to separate refractory criminals from the sound part; and the people are bound to be separate, for they also have a share in this binding and loosing by way of consent and compliance, and ve-

[f] Erfurdt. 454. pag. 32. vol. 4. [g] Hecuba. Porson, 799. Leips. ed. pag. 65.
[h] Sophocles. Œd. Tyr. 857. Erfurdt. vol. 5. pag. 73.
[i] Frag. Incert. 1. ed. Bliss. vol. 1. pag. 58.

rification, according to that of St. Austin [k], "Si fratrem habes pro ethnico et publicano, ligasti illum in terris; si correxeris fratrem, solvisti illum in terris." The people are to bind and loose, that is, to esteem him that is bound, as a heathen and a publican,—and to assist in the correcting of him, by bringing him to repentance by the instrument of shame. But this being matter of office, and not merely of benefit, it is evident that it is a precept, and not a leave only, a commandment, and not an indulgence.

8. But then if we inquire to how much and to what manner of usages it does oblige us, we shall be able to understand our duty best, by considering, that it is a proverbial expression, or a form of execration, to signify impious and profane persons, of the vilest reproach. Just as in the Old Testament [l], of what nation soever he was, yet a stranger from the covenant of God, was called an 'Aramite' or a 'Syrian;' and when St. Paul said that St. Timothy's father was a 'Greek,' the Syriac interpreter calls him an 'Aramite:' so here a heathen and a publican signifies a wicked and a reprobate person; as we call cruel people 'Turks:' and, in the time of the holy war, all very vile and intolerably vicious or hated persons were called 'Saracens.'—'Harlots and publicans' Christ joins together; so 'publicans and sinners [m]' the same with 'heathens and publicans.' Meaning, that all are contumacious sinners, who, upon admonition and ecclesiastical correption, refuse to repent, or to be accounted enemies and strangers to the rights and promises of the gospel, enemies to the religion, and separate from God, and given over to a reprobate sense.

9. But it cannot be inferred from hence, that the same usage, which the Jews gave to heathens and publicans, we are tied to have towards excommunicates. That we must have no worse is certain, but not such, not so bad, is also very true; because our blessed Saviour did not even amongst them approve of those harsh and contemptuous usages; *μὴ συγχρῆσθαι, κολλᾶσθαι, συνεσθίειν, προσέρχεσθαι*, they would not eat, nor drink, nor trade, nor come to them.

> Non monstrare vias, eadem nisi sacra colenti;
> Quæsitum ad fontem solos deducere verpos [n].

[k] De Verbo Domini, homil. 15. [l] Levit. xxv. 47. [m] Matt. xxi.
[n] Juven. Sat. xiv. 104. Ruperti, 2d ed. pag. 272.

They would not do common civilities or charities to an uncircumcised man, to a heathen. But when our blessed Saviour had used them better, and so taught others to converse with them, to do them good and to save their souls, it will be very reasonable to collect from hence, that Christ did not intend by this to enjoin us to such treatments of the excommunicates as the proud Pharisees gave to publicans and heathens: but the manner of speech was in use among the Jews to signify impious persons and great sinners, and so excommunicates are to be accounted.

10. That therefore which remains is, that the usage here intended is, that they should be separate from the communion of holy offices, from partaking in the mysteries of religion; for that was the known use of the words of 'binding' and 'loosing' among the Jews, which Christ used in giving the church a power of excommunication, 'To bind' signifies to forbid, and 'to loose' signifies to give admission and leave, according to that usual saying of the Jews, "There was nothing bound by Ezekiel or by David but what was bound in the law,"—that is, they forbade nothing else. So that the accounting these persons separate from God, and forbidding them to enter into the communions of the sons of God in the mysteries of their religion, is all that can, by any probability, be inferred from hence, excepting what is superadded from common reason and the laws of nature; that if beyond this there be danger of receiving hurt, the separation go further: and therefore the apostles gave caution to their converts, that they should not salute or admit into their houses false apostles, because of the imminent danger; but, beyond this, I find no divine commandment.

11. Whatsoever therefore, besides these things, is superadded by the laws of the king or the canons of the church, is to be obeyed upon those accounts, where no other duty is prejudiced; and therefore in this there is no other rule of conscience, but that we first attend to the laws of God concerning our other duties, and then to the laws of the king in this. But in the thing itself, excommunication cuts the refractory sinner from the communion or religious intercourse of the church; he is not to be reckoned as a brother, or a relative in our religious friendship and union. The offices of humanity and civility are not to be denied to him: but there

ought to be no dearness and proximity of friendship: we are not to take much care of reproving him; his ears are shut to truth, and he cannot hear good counsel; "hujus ergo desperanda salus," as Cicero[o] said of the like persons; unless a new hope arise, "we may despair of his salvation."

12. One thing more I add, that when the church inflicts censures upon those, who communicate with the excommunicates, it is not upon a real belief that all such persons are guilty of the same crimes by secret approbation or consent, but because she cannot tell whether they be or no; for it is a just legal presumption, and hath some natural probability that it is so: and the church is but too justly offended and scandalized at such communications and intercourse. But then on all sides, there is a difference to be made; and the church must not be so offended, when he that communicates with the excommunicate, apparently does not, or by that communion cannot be presumed to, partake of the principal sin: and therefore, besides the tyranny and usurpation and illegal proceedings of Hildebrand against the emperor Henry, excommunicating him upon pretence of simony in the matter of investitures, he did foolishly and unreasonably excommunicate all them, that did partake or converse with him. For first, the church hath no power directly to make laws in the matter of secular conversation: and if it be said, 'By consequence and legal presumption the church concludes such persons, that communicate with the excommunicates, to consent or partake of the crime;' that is according as the matter is, and in this case is extremely unreasonable and foolish: for it cannot be imagined, that all the subjects of the emperor should be partners of the bargains, or should know of them, or believe any such thing, or approve it, if they did know or believe it; and the communicating with their prince as subjects could not infer it, with any seeming probability, that they were all simoniacs.

13. But then on the other side, the sons of the church must be, with curiosity, restrained in their communions with such excommunicates, whose conversation does, with probability, involve us in the guilt and participation of the principal crime: and this is especially to be observed in sins about government, and in matters of persuasion, that is, in

[o] De Amicit. xxiv. 8. Wetzel, pag. 222.

matters of heresy and schism; for "their word eateth like a canker," that is, these crimes are infectious, and scatter themselves into all that converse with them, or is very likely so to do; and therefore in these cases, the subjects may be more restrained from intercourse with excommunicates; and it must be a greater necessity that must warrant it, than may pass and be allowed in other cases.

14. This is all I find necessary to be considered in the matter of ecclesiastical censures, in order to the regulating of conscience: which the casuists in the Roman church have handled in great volumes, and make it commonly the one half of all their inquiries and ministries of conscience. For all the questions and considerations concerning "suspensions; irregularities; interdicts; depositions and degradations; absolutions of the dead and of the absent; the forms of absolution; reservation of cases; delegations and licenses; absolutions against our wills, and by others who bound us not, and upon false suggestions; absolutions upon condition and reincidences; sentences uncertain and unknown; excommunications comminatory and 'ipso facto,' papal and episcopal, common and special, principal and delegate; by regulars and seculars; the excommunication of angels and devils; of fowls and beasts; Pagans and Jews;" and thousands of questions, cases, accidents, incidents, limitations of times appendant to all these, which make the peace of conscience to be as impossible as the conduct of it, all these are cut off by the simplicity of truth, and the plainness of divine institutions, which are few, and easy, and useful, and reasonable; wise, but not perplexed; severe, but not ensnaring. But those things, which are introduced by human authority and rely upon secular interests, the artifices of covetous or ambitious men, and are maintained by force, and false or uncertain principles, they are fit for the 'forum contentiosum,' for 'courts of strife,' but not for the court of conscience, which is troubled by any thing, that destroys peace as certainly as by that, which destroys innocence.

Sect. 3. *Of Canons ecclesiastical.*

That which I am next to inquire of, is, concerning the more particular persons or communities of men, in whom the ecclesiastical power is subjected, and where we are to find the

records of ecclesiastical laws, and from whom the obligations of conscience do proceed, and in what matters their authority is competent, and their canons obligatory: that is, to what and whose ecclesiastical canons the conscience is, and how far it is, bound.

RULE XI.

The Canons of the Apostles, which are of Order and external Government, do oblige the Conscience by being accepted in several Churches, not by their first Establishment.

1. THAT the canons which the apostles made, did oblige the churches, to whom they were fitted and directed, is without all question, according to that of the Apostle[p], "To this end also did I write, that I might know the proof of you, whether ye be obedient in all things." For whatsoever was their ordinary power, yet they had so much of extraordinary, had such special commissions and warranties from Christ, had such gifts and miracles of power, so much wisdom, so much charity, and so entire a government, and were the only fountains from whence the rules of the church were to be derived, that their word ought to be a law to whom it was sent, and a precedent to them that should hear of it: it was like the pattern on the mount, to which all churches, in equal circumstances and the same conjunction of affairs, might conform their practices.

2. Thus we find that the apostolical decree of abstaining from blood was observed by more churches than those of Syria and Cilicia, to which the canon was directed; and the college of widows or deaconesses, though provided for the first ministry of the churches and relief of ancient widows, derived itself into the manners of the western churches, and lasted longer than there was need. There was no hurt in it; the reverence to the persons and dignity apostolical was foundation enough to bear a greater burden: but the retention of such canons and orders was just like the retention of the judicial laws in some commonwealths, which they did in

[p] 2 Cor. ii. 9.

regard to the divine wisdom; though they in so doing did piously indeed, but yet did not imitate that wisdom, by which those laws were made.

3. But because it is evident, that the laws of order and government were fitted to times and places and present necessities, the same wisdom that so fitted the laws and things together, did also know, that those rules were not good, when the things were changed and grew unfit for that measure. The apostles, in their first preachings and conversation in Jerusalem, instituted a cœnobitic life, and had all things in common with the believers; indeed no man was tied to it: and of the same nature were their canons, counsels, and advices, and propositions of what was best. But that advice related to the present necessities of believers: they were likely to suffer persecution, and the nation was, in a little time, to be destroyed,—and therefore it was prudence to sell their lands, and charity to divide the use of it. But if any man shall say, that this obliges all Christians, he is unreasonable; but if they do not, then it is certain, that their laws oblige according to the subject-matter and the changing reasons of things; and therefore, not by their authority alone, but by their authority also who are judges of the reason of things, and can declare with obligation.

4. But yet further; the orders which the apostles gave to their churches, though they be as good now as they were then, and have equal circumstances, yet unless it can appear, that they by them intended to oblige all ages of the church, although they were not free men, yet they are free now. Now this is certain, that they gave no such laws, but what they received in commandment from Christ; and whenever they said of any particular, 'This say I, not the Lord,' they gave but an advice, or made a temporary order; but when they said, "This we have received from the Lord," it is always a doctrine of faith, or a moral commandment. So that the rules of order, being neither of these, are but topical, and limited, and transient; such which when they are chosen by the rulers of churches, they become canons and measures of practice, but else not. The Apostle made an order in the Corinthian church, that men should not pray or prophesy having their heads covered; but yet in France the preachers are covered, and do not think they prevaricate an apostolical

canon; because they supposed it reached no further but to that church, or at least was agreeable to the manners and customs of those places. St. Paul appointed, that they should lay aside, every first day of the week, something for the poor: but he that shall choose to do this upon his weekly fasting-day, does as well; he does the same thing in another circumstance. St. Paul gave in order to Timothy, that a bishop should not be a novice; meaning in age, or in Christianity, or both: and yet St. Timothy himself was but a novice, being chosen bishop at the age of twenty-five years, as the ecclesiastical histories report; and Theodosius chose Nectarius, being but newly converted; and the people chose St. Ambrose to be bishop before he was baptized, and the election was confirmed by Valentinian. Fabianus, Cyprian, Nicolaus, Severus, Tarasius, were all novices or new Christians, when they were chosen bishops; and yet the church made no scruple of that canon of the apostles, because to break it was more for the edification of the church. And I remember that Cassander[q], speaking of the intolerable evils that fell upon the church by the injunction of single life to priests and bishops, says 'This law ought to have been relaxed, although it had been an apostolical canon.' Thus also it happened in the canon concerning the college of widows; "Let not a widow be chosen, under threescore years;" and yet Justinian[r] suffered one of forty years old to be chosen, and had no scruple, and he had no reproof: but that was no great matter; for the whole institution itself is now laid aside, and other appointments are established. And which is most of all, that decretal of the apostles which was made in full council, the most œcumenical council that ever was in Christendom, made at the request of the churches of the gentiles, and the inquiry of the Jews, forbidding 'to eat things strangled,' is no where observed in the western churches of Christendom; and St. Austin[s] affirmed, that if any man in his time made a scruple of eating strangled birds, every man did laugh at him. But of this I have given a full account[t].

5. Now if those canons apostolical, which are recorded in Scripture, and concerning which we are sure that they

[q] Consult. art. 23.
[r] Novel. 123. cap. 12, 13.
[s] Lib. 32. contra Faustum Manich. cap. 13.
[t] Lib. 2. chap. 2. rule 2.

had apostolical authority, be, without scruple, laid aside in all Christendom, some every where, some in some places,—it is evident that it is the sense of the whole catholic church, that the canons of the apostles, for order and external measures of government, had a limited sphere of activity, and bind not beyond their reason and convenience,—that is, as every church shall find them fitted to its own measures; and therefore this is much more true in such things, which are but pretendedly apostolical, whose name is borrowed, whose story is uncertain, whose matter is dubious, whose records are not authentic: and therefore whatever else can be pretended to be apostolical, and is of this contingent nature and variable matter, is evidently subject to the present authority of every church or Christian kingdom which is supreme in its own dominion.

6. But besides the reasonableness of the thing, we see it practised in all places without dispute or question; that those things which are called canons apostolical, and either were not so, or not certainly so, are yet laid aside by those churches, who pretend to believe them to be so. The fifth canon of the apostles, in that collection which is called apostolical, appoints, that 'the first-fruits shall be sent home to the houses of bishops and priests,' and makes no question, but they divide them amongst the deacons and clerks; but I think, in the church of Rome, they pay no first-fruits; and what they do pay, the bishops and priests keep unto themselves. But this is nothing. The sixth canon commands, that 'a priest or a deacon should not, under pretence of religion, put away his wife:' now this is so far from being received in the church of Rome, that, for this very canon's sake, Baronius calls the collection apocryphal, and rejects them from being apostolical. The seventh canon forbids 'a bishop or presbyter to have any thing to do in secular affairs, under pain of deposition.' This would destroy much of the grandeur of the church of Rome, if it were received. And the tenth destroys one of their great corruptions in discipline and doctrine, for it is a perfect deletory of their private mass; it excommunicates those of the people, who come to churches and go away before they have received the communion, calling them disturbers of the church; now this at Rome would seem a strange thing. And yet all these are

within that number of fifty, which, Baronius says, were known to antiquity. But he that desires more instances in this affair, may consult the canons themselves, amongst which he will find very few observed at this day by any church in Christendom. The church of Rome[n] pretends to believe that the Wednesday and Friday fast were ordained by the apostles; and yet the Wednesday fast is not observed, except by particular order and custom, but in very few places. I shall give one instance more. The apostles commanded the feast of Easter to be celebrated upon the Sunday after the full moon, which should happen after the vernal equinox: so the western churches said. The eastern pretended another canon from St. John, to celebrate it after the manner of the Jews: and though they were confident and zealous for that observation upon the apostolical warrant; yet the western bishops at first, and afterward the whole church did force the easterlings to change that rule, which they and their forefathers had avowed to all the world, to have received from St. John; and it is observable, that this was done upon the designs of peace and unity, not upon any pretence that St. John had never so given it in order to the Asian churches.

RULE XII.

All those Rituals, which were taught to the Church by the Apostles concerning Ministries, which were of divine Institution, do oblige all Christendom to their Observation.

1. I INSTANCE in the holy sacrament, first of all: concerning which the apostles delivered to the churches the essential manner of celebration, that is, the way of doing it according to Christ's commandment: for the words themselves, being large and indefinite, were spoken indeed only to the apostles, but yet they were representatives of all the whole ecclesiastical order in some things, and of the whole Christian church in other; and therefore what parts of duty and power and office did belong to each, the apostles must teach the church, or she could have no way of knowing without particular revelation.

[n] Reginald. Prax. fori Pœnit. lib. 4. cap. 12. sect. 3. p. 148. n. 133.

2. Thus the apostles taught the bishops and priests to consecrate the symbols of bread and wine, before they did communicate; not only because by Christ's example we were taught to give thanks before we eat, but because the apostles knew, that the symbols were consecrated to a mystery. And this was done from the beginning, and in all churches and in all ages of the church; by which we can conclude firmly in this rule, that the apostles did give a canon or rule to the churches to be observed always, and that the church did never believe she had authority or reason to recede from it. For in those rites, which are ministries of grace, no man must interpose any thing, that can alter any part of the institution, or make a change or variety in that, which is of divine appointment. For the effect in these things depends wholly upon the will of God, and we have nothing to discourse or argue; for we know nothing but the institution, nothing of the reason of the thing: and therefore we must, in these cases, with simplicity and obedience, apply ourselves to practice as we have received, for we have nothing else to guide us: memory and obedience, not discourse and argument, are here in season.

3. And in this we have an evident and apparent practice of the church handed to us by all hands that touch these mysteries; as who please may see in Justin Martyr[x], Irenæus[y], Origen[z], St. Cyril of Jerusalem[a], and of Alexandria[b], St. Basil[c], St. Gregory Nyssen de Vita Moysis, Optatus Milevitanus[d], St. Chrysostom[e], St. Ambrose[f], St. Jerome[g], St. Austin[h], Theodoret[i], Gregorius Emissenus[k], Gregory the Great[l], Damascen[m], Remigius[n], Paschasius[o], and divers others, and absolutely in all the liturgies that ever were used in the church: so that the derivation of this canon from the apostles, is as evident as the obedience to it was universal.

4. But where the apostles did not interpose, there the

[x] Apol. 2. ad Anton.
[y] Lib. 4. ad Hær. cap. 34.
[z] Lib. 8. contr. Celsum.
[a] Mystag. Catech. 3, 4.
[b] In Johan. lib. 10. cap. 13.
[c] Lib. de Spir. S. cap. 27.
[d] Lib. 2. contr. Par.
[e] In 2 Tim. hom. 2. serm. de Prodit. Jud.
[f] De Sacram. lib. 4. cap. 4.
[g] Ep. 1. et 85. ad Evagrium, et in Sophon. cap. 3.
[h] De Trinit. lib. 3. cap. 4. contra Faust. Manich. lib. 20. cap. 13. et serm. 28. de Verbis Domini.
[i] Dial. 1.
[k] Serm. 5. de Paschate.
[l] Dial. lib. 4. cap. 58.
[m] De Fide, lib. 4. c. 14.
[n] In 1 Cor. cap. 2.
[o] Lib. de Corpore Domini.

churches have their liberty; and in those things also, which evidently were no part of the appointed liturgy or ministration, in those things, though it be certain the apostles did give rules of order and decency, yet because order is as variable as the tactics of an army, and decency is a relative term, and hath a transient and changeable sense, in all these things there is no prescription to the church, though we did know what the churches apostolical did practise, for they did it with liberty: and therefore we are not bound; the churches are as free as ever; though the single persons in the churches can be bound, yet the churches always have liberty.

5. And indeed that is the best sign, that the apostles gave no perpetual order, in any instance, and that it is no part of the institution, or the ministry of grace, when the ancient churches, who were zealous for the honour apostolical, and accounted every thing excellent that derived from them, did differ in their practices. Thus the Greek and Latin churches did always differ in the sacramental bread, the Latins always consecrating in unleavened bread, which the Greeks refuse: if either one or other had been necessary, they should have been clearly taught it, and if they had, there is no reason to believe, but they would have kept the 'depositum,' there being no temptation to the contrary, and no difficulty in the thing, and no great labour to preserve; the daily use of the church would have had in it no variety; for no traditions are surer, or easier preserved, than the λειτουργικὰ 'the matters of liturgy,' and the rituals apostolical: which when we find that they were unitedly and consentingly kept by the ancient churches, we may well suppose the apostles to be the first principle of derivation, and that the thing itself was necessary and a part of the religion; but if at first they varied, they had no common principle, and therefore they had no necessity.

6. Thus that the bishop or priest should be the only minister of consecration, is an apostolical canon or rule, "ad quorum preces Christi corpus sanguisque conficitur," saith St. Jerome [p]: and the continuation and descent of this particular, from the manners of the apostolical ministration, is evident in the fore-alleged testimonies. Now because, by this constant derivation, we can pursue the tract up to the

[p] Epist. 85.

apostles, and, from their practice and teaching of it, we can understand it to be 'the will of God,' and because this whole ministry is an act of grace and depends only upon the will of God, we perceive the thing to be necessary and unalterable, we must look for grace in the ministries of grace so as God hath appointed them; and therefore in these things, the churches of the succeeding ages have no authority, no liberty, no variety. That women do communicate in the holy mysteries, is not set down in the institution: but the church derives her warranty from the interpretation and order and practice apostolical: the church was taught by the apostles to admit them, and she always did it: and these things amongst sober and modest men do sufficiently prove one another. They always did it, and therefore they were taught it by the apostles: and they were taught to do so by the apostles, and therefore they were obliged to do it. And now in matters of salvation and common duty, the rule[q] of the church is, "Scriptura loquens in masculino procedit etiam in fœminino." There is no difference in sexes, and before God it is now as it shall be in the resurrection: "There is neither male nor female with him," but all alike.

7. That the symbols were to be consecrated, and who were to consecrate, and who were to receive, were of great necessity to be taught and determined: and in all this we see unity and necessity, authority and obedience; but when we go beyond this, and the plain and necessary and constituent parts of the institution, we find variety and uncertainty. That bread is to be used, is plain; but whether leavened or unleavened, neither Christ nor his apostles have left in charge or memory. That wine is to be blessed, is certain: but whether mingled with water, or not mingled,—we are not determined by any authority. That the bread and wine are to be blessed, we are sure: but in what form of words, and whether by the mystic prayer, or the words of institution,—is not derived to us by sufficient tradition. That the Lord's supper is, sacredly and with reverence, to be received, is taught us by the apostles: but whether this reverence ought to be expressed by taking it 'virgine saliva,' fasting, or not fasting,—the apostles left the churches to their choice. In those things which did co-operate immediately to the grace

[q] Panormitan. in capit. Majores in Princip. in 5to Notab.

of the sacrament, in those we were not to invent any thing; and in those we were tied to obey what was delivered us.

8. And the same is the case in baptism, in which that which was necessary, is, that the person be baptized in water, and in the name of the Father, Son, and Holy Ghost: but whether the priest shall say, 'Ego te baptizo,' as the Latins do,—or 'Baptizetur servus Christi,' as the Greeks do,—is indifferent: and if the apostles had used any other little variety of words, yet if there was not in the first churches a unity and universality of practice, it is certain the apostles did not, by their act or canon, intend to oblige all Christendom: but themselves did it with liberty, and therefore so might the churches after them.

9. For excepting those things which the apostles received from Christ, in which they were ministers to all ages, once for all conveying the mind of Christ to the generations to come,—in all other things they were but ordinary ministers, to govern the churches in their own times, and left all that ordinary power to their successors, with a power to rule their churches, such as they had, and therefore whatever they conveyed as from Christ, a part of his doctrine or any thing of his appointment, this was to bind for ever; for Christ only is our lawgiver, and what he said, was to last for ever: in all things which he said not, the apostles could not be lawgivers, they had no such authority; and therefore whatsoever they ordered by their own wisdom, was to abide as long as the reason did abide; but still with the same liberty with which they appointed it; for of all men in the world they would least 'put a snare upon the disciples,' or tie fetters upon Christian liberty. But in divine commandments, and in what were the appointed ministries of grace, they were but the mouth of Christ, and ministers of his holy Spirit; and in those things, what they told to the churches, is our law for ever.

10. Of the same nature is the distinction of bishops from presbyters, and the government of the church by them; for this being done in the apostles' times, and immediately received by all churches, who, every where, and ever since, were governed by bishops and by presbyters under them, it is not only still to be retained unalterably, and is one of those great things, in which the present churches have no

liberty or authority to make a change; but it is to be concluded to be a law of Christ, which the apostles did convey, with an intent to oblige all Christendom: not only because the apostles could not, in things indifferent, oblige or make a law to succeeding ages,—for they had no authority, and could not govern churches after they were dead,—and it was against the laws of Christ, that the commandments of men should be taught for doctrines,—and it is against Christian liberty, that a lasting necessity should, by man, be put upon any thing, and the succeeding churches would be straitened in the liberty which Christ had given them, and in which they were bound to stand fast;—not only all this, but this was a ministry of grace, the bishops were for ever appointed to give 'a gift by the laying on of hands:' and therefore here was an appointment by Christ, and by Christ's Spirit; for there is not in the world a greater presumption, than that any should think to convey a gift of God, unless by God he be appointed to do it. Here then could be no variety, and no liberty: this canon apostolical is of eternal obligation, and the churches cannot otherwise be continued.

11. But then in the appendages and annexes of this, the apostles did do their ministries; they did invocate the Holy Spirit upon those which were to be ordained: but in these they had no commandment what form to use. Imposition of hands and prayer were the necessary and appointed ministry: for in these things the churches did not vary, but took them from the apostles as the appointed liturgy: but with what form of words, and with the tradition of what instruments, is left to the choice and economy of every church.

RULE XIII.

In the Rules which the Apostles gave to their Churches in Things indifferent, the Church hath a Liberty; but it is not used but for great Reason and great Necessity, and for the Edification of the People committed to their Charge.

1. The reasons of this rule are these two. First, because it is a great regard to the honoured names of the apostles, the pillars and foundations of the church, that there be not an

easy change made of what they, in wisdom, had determined to be the measures of order and decency. But this is to be understood in such things, which change not, and whose nature, although it be not of moral obligation, yet the reason that bound it first may be perpetual, and such which cannot be succeeded to, and cannot be excelled. Thus the keeping of the Lord's day, besides all the other reasons derived from the nature of the thing, yet even for this alone, because it derived from the apostles, is to remain so for ever: because the reason being at first competent, for which they kept their assemblies, and gave that day to religion, and the same reason remaining for ever, and another cannot come in place of it, and a greater there cannot be, although the churches are not in conscience directly bound, yet collaterally and indirectly they are. For it would be a plain contempt of the persons and wisdom of the apostles, besides the disrespect to the mystery itself, to change the Sunday festival into any other day; for since there can be no reason for so doing, and a greater blessing than Christ's resurrection we are not to expect, and a greater reason for the keeping of a day than a thanksgiving for the greatest blessing there cannot be (except a divine commandment), the only reason, why any church should change it, must relate to the apostles; and therefore, be no less a contempt of their persons, and a lessening of their eminence, and could not be less than an intolerable scandal.

2. The other reason is, because the apostles even in things where they had no divine commandment, yet had the Spirit of God[r], the spirit of wisdom and government; and therefore where evidently there is not an inconvenience, or a uselessness, or an unreasonableness by reason of the change of times and circumstances, the churches are on the surer side, when they follow the practice and precedents of the apostles, and have the confidences of a reasonable hope, that such appointments are pleasing to Christ, since it is not unlikely, that they were derived from the Spirit of Christ. But in these cases the practices and canons apostolical must be evident and proved: for since in these particulars of lesser concernment, we do but presume and conjecture that the apostles were taught by the Spirit immediately; if it be but

[r] 1 Cor. vii. 40.

a conjecture that the apostles did teach or practise it, we have two lame feet, and cannot tread securely.

3. I shall give one instance in this particular, but it will be of great use, not only for the verification of this explication of the rule, but in order to conscience, because it is in some churches tied with strait cords, and pretended to be very necessary, and of great obligation upon this stock, because it was appointed by the apostles: and it is the observation of Lent and the weekly fasting-days.

Of the Lent Fast, and the weekly Fasting-days.

4. The fast of Lent, of all that are not, pretends the most fairly to have been an apostolical tradition; and if it could prove so, it would with much probability pretend to have been imposed with a perpetual obligation.

5. Of the first we have many testimonies from the ancient fathers. So St. Jerome[s]: "Nos quadragesimam secundum traditionem apostolorum toto anno, tempore nobis congruo, jejunamus."—So St. Leo[t]: "Quod ergo in omni tempore unumquemque convenit facere Christianum, id nunc solicitius est et devotius exequendum, ut apostolica institutio quadraginta dierum jejuniis impleatur." And again[u]: "A sanctis apostolis per doctrinam Spiritus Sancti majora sunt instituta jejunia, ut per commune consortium crucis Christi, nos etiam aliquid in eo, quod propter nos gessit, ageremus." To these agrees Isidorus Hispalensis[x]: "Quadragesima in universo orbe institutione apostolica observatur circa confinium Dominicæ passionis." To which Dorotheus[y], a Greek abbot, does consent, save only that he says more; for he affirms that the apostles did consecrate the seven Quadragesimal weeks of fasting. So that here we have four ancient authors give testimony, that the Lent fast was a tradition or an appointment apostolical.

6. Now if it come from the apostles by way of precedent or authority, the thing itself hath, in its nature or appendage, some advantages, by which with much reasonableness we may believe it was intended to bind all ages of the catholic church. Because the usefulness of it will be as much now as ever it was; and it being a specification of the duty

[s] Epist. 54. ad Marcell. [t] Serm. 6. de Quadrages. [u] Serm. 9.
[x] Origin. lib. 6. cap. 19. p. 83. a. [y] Biblioth. PP. Græco-lat. tom. 1. p. 839.

of fasting, which will never be out of season, and having always the same common cause, that is, the precedent of Moses and Elias, and the example of our blessed Saviour himself, the duty not being relative to time or place, and the reason of the institution being of perpetual regard, and the usefulness very great, and the thing pious and holy, and add to these, all churches ancient and modern having received it till now of late, it will be very like a duty incumbent upon all churches and all ages to observe this fast, which the apostles with so much reason did prescribe.

7. And in pursuance of this we find some excellent persons in the ancient churches saying expressly, that this institution is warranted to us from Christ. So St. Austin[a]: "The Carême or Lent fast hath an authority of a fast both in the Old Testament from the fast of Moses and Elias, and out of the gospel (because so many days the Lord fasted), demonstrating that the gospel does not differ from the law:" and again[a]; "By that number of forty, in which Moses and Elias and our Lord himself did fast, was signified unto us that we must abstain from secular delights." The same thing also is affirmed by St. Jerome[b]: "Moses and Elias, in their forty days' hunger, were filled with the conversation of God: and our Lord himself fasted so many days in the wilderness that he might leave to us the solemn days of fasting;" or, as he says in another place[c], "Hæreditatem nobis jejunii derelinquens, ad esum corporis sui sub hoc numero animas nostras præparat;" "Leaving to us the inheritance of fasting, under this number he prepares our souls for the eating of his body."—So Isidore: "The first is the fast of Lent, which began from the fast of Moses and Elias and of our blessed Lord, who fasted so many days."

8. Now although these fathers intend not to say, that our Lord did command this fast, but gave us a precedent and an example to imitate as well as we can; he was the occasion why the church took that time, and performed that severity: yet the example of our blessed Lord cannot be neglected without sin: "Non enim, fratres, leve peccatum est indictam Quadragesimam à Domino non jejunare, et jejunia consecrata ventris voracitate dissolvere," &c. said the author of

[a] Epist. 119. ad Januar.
[b] In Isa. lib. 16. cap. lviii.
[a] In Psal. cx.
[c] In Joan. cap. iii.

the twenty-fifth sermon in the works of St. Ambrose; "It is not a light sin not to keep the Lenten fast which was indicted by our Lord, and with the greediness of the belly to dissolve these consecrated fasting-days. For what does he deserve, that breaks the fast which Christ indicted? If therefore thou wilt be a Christian, thou must do as Christ did. He that had no sin, fasted forty days: and wilt not thou who hast sinned, keep the Lent fast; he I say, that had no sin, yet fasted for our sins: Think therefore in thy conscience, what a kind of Christian thou art, when, Christ fasting for thee, thou wilt eat thy dinner." This author, whoever he was (for it was not St. Ambrose), supposed that the example of Christ was a sufficient indiction of the Quadragesimal fast. But it is to be observed, that it is not unusual with ancient writers to affirm a thing to be by divine right, if there be in Scripture but an authentic precedent and example of it. Thus when the canon[d] law affirms, that the churches and churchmen are free from secular exactions, not only by human but also by divine right: which saying, because to our ears it must needs seem extremely harsh, the gloss upon the place does soften it, by referring it to the fact of Joseph to the Egyptian priests, and of Artaxerxes to the Israelites. So that it is not intended that things of this nature be divine precepts properly so called; but such which the church[e] for decent regard takes up in imitation of so great examples: and indeed they are such, which when the church hath upon such accounts taken them up, cannot be omitted without sin, if they be omitted without cause: for then they have authority when they are commanded by our superiors. But the example of our blessed Lord, in such extraordinaries as these, is but a very weak argument to introduce an institution, ordinary and perpetual, troublesome and ensnaring. But of this that we may be rid at once, I will set down the judgment of St. Austin and of St. Chrysostom[f]: "In what shall we imitate the ways of Christ? Shall it be in that magnificence in which God was in the flesh? Or does he exhort us to this, or exact of us to do miracles such as he did? He did not say, Ye shall not be my disciples unless ye walk upon

[d] In 6. de Censibus, cap. Quanquam.
[e] Vide Bellar lib. 1. de Cleric. cap. 28. sect. Quinta propositio.
[f] S. Aug. in Psal. xc.

the sea, or unless ye raise to life him that hath been dead four days, or unless ye open the eyes of one that was born blind. What therefore does he mean, saying, 'Ye must enter by the door; Learn of me, because I am meek and humble in heart?'" that is entering in by the door, that is the imitation of Christ that is required of us. But St. Chrysostom[g] says the same thing, and more pertinently and applied to this matter of fasting: "He doth not say his fast is to be imitated, although he might propound these forty days of his: but 'Learn of me, for I am meek and humble in heart:' yea, rather contrarily, when he sent the apostles to preach the gospel, he did not say, 'Fast,' but 'Eat whatsoever is set before you.'" Now this argument of our blessed Lord's example being removed, and it being certain, that, from his example, to conclude a divine precept in such extraordinaries and external actions is the worst argument of the world, and it being expressly affirmed by St. Chrysostom that Christ did not, in his fasting, propound himself as imitable by us, we may now return to the first consideration and pretence, and inquire whether or no the fast of Lent was a tradition and canon apostolical: that is, not only whether this did deseend from their practice (for if Christ's example did not oblige us in this, much less could that of the apostles); but also whether the apostles did deliver this as a rule for the practice of the churches in all descending ages.

The Lent Fast is not a Tradition or Canon apostolical.

9. This first appears in that we find it affirmed often in antiquity, that the fasts of the church were arbitrary and chosen, without necessity and imposition from any authority. Which thing was observed by Socrates[h], speaking of the Lent fast: "Because no man can show in any record that there was a commandment concerning this thing, it is manifest that the apostles did permit a free power in the same, leaving it to every one's mind and choice, that every one might do what was good, without the inducement of fear or of necessity."—"For so we ought to fast and abstain (saith Prosper[i]), that we may not submit our souls to a necessity of fasting and abstaining, that we may not do a voluntary thing

[g] Homil. in Matt. 47. [h] Lib. 5. cap. 22. Græ. 21. Latin.
[i] De Vita Contemplat. lib. 2. cap. 24.

by an involuntary devotion." But of this we have elder testimony: for when Tertullian scraped together all that he could to justify the Lents of Montanus, the new fasts which he, for discipline, would have had the churches for ever to observe,—he laid hold upon the practice of the Catholics to verify Montanus's imposition, saying, that the Catholic bishops did enjoin fasts "sometimes 'et ex aliqua sollicitudinis ecclesiasticæ causa,' upon the occasion of some trouble or affliction in the church [k]," that is, temporary fasts, or solemn days upon special emergent accidents. He adds also that they kept the Paschal fast, the two days before Easter, in which the bridegroom was taken from them: but in these days they did sometimes live on bread and water, "ut cuique videbatur, et hæc ex arbitrio agentes et non ex imperio;" "they did this not by any command, but by choice and as they pleased themselves;" for so the Catholics did say and believe [l], "sic et observasse apostolos, nullum aliud imponentes jugum certorum, et in commune omnibus obeundorum jejuniorum," "that the apostles did fast as every Christian else did and ought to do," "ex arbitrio, pro temporibus et causis uniuscujusque," "as every one had cause and opportunity and will;" but they imposed no other yoke of certain, and for-ever-to-be-observed fasts.

Laxus ac liber modus abstinendi
Ponitur cunctis: neque nos severus
Terror impellit: sua quemque cogit
Velle potestas.
Sufficit quicquid facies, vocato
Numinis nutu prius, inchoare,
Sive tu mensam·renuas, cibumve
Sumere tentes.

So Prudentius [m] expressly affirming that even, in his time, there were no laws of set and annual fasts: for that very thing Victor Antiochenus [n] makes to be a difference between the Old and New Testament; for the faithful in that time had fasting-days appointed by God, "quæ proinde modis omnibus explere obligabantur, etiamsi alias noluissent," "which they were bound by all means to observe though against their will;" but under the gospel we fast by the love of virtue, and the choice of our own will, rather than by the coaction of

[k] Lib. de Jejun. cap. 13. [l] Cap. 2.
[m] Cathemer. hymn. 8. [n] In Marc. cap. 2.

any law. For "quibus diebus jejunandum sit, nullo apostolorum præcepto definitum reperiri," said St. Austin[o]; "what days we are to fast, is no where to be found determined by any precept of the apostles."

10. (2.) This also appears in that we find the original of the Quadragesimal or Lent fast attributed to other causes and beginnings, than the tradition or canon apostolical. Cassian [p] says, that "as long as the perfection of the primitive church did remain, there was no observation of a Lent fast; for they who spent the whole year in abstinence, were not tied with the necessity of a precept or legal sanction. But when the multitude of the believers, every day cooling in their devotion, did brood upon their wealth, 'id tunc universis sacerdotibus placuit [q],' 'then it seemed good to the bishops' to recall men to the work of holiness by a canonical indiction of fasts, and to give to God the tenth of their days." So that the cause of the institution of this fast was the universal declension of the primitive piety: and the authors of it were the whole consent of the bishops. Something like this was that of St. Chrysostom [r], who complaining of the diminution of the primitive heats of piety, and their unworthy communicating, especially at Easter, adds, *Συνειδότες οὖν οἱ πατέρες τὴν βλάβην τὴν γινομένην ἐκ τῆς ἠμελημένης προσόδου, συνελθόντες ἐτύπωσαν ἡμέρας τεσσαράκοντα νηστείας, εὐχῶν, ἀκροάσεως, συνόδων*, &c. "When the fathers had observed the hurt, that came from so careless conventions, they, meeting together, appointed forty days for fasting and prayer and hearing of sermons, and holy assemblies." St. Austin does not, as Cassian, impute it to the sanction of the bishops, nor to a council of the fathers, as St. Chrysostom [s], but to the custom of the church: "Ut quadraginta illi dies ante Pascha observentur, ecclesiæ consuetudo roboravit: sic etiam ut octo dies neophytorum distinguantur à cæteris," "The custom of the church hath established the observation of forty days before Easter, and the eight days after Easter for the novices." Both from the same principle. But it was not the same authority of the apostles, but the custom of the church, that made it into a law. In Irenæus's time, there was a custom

[o] Epist. 68. ad Casulanum. [p] Collat. 22. cap. 30.
[q] Cap. 9. [r] In Vet. Test. tom. 5. Hom. in eos qui Pascha jejunent.
[s] Epist. 119. ad Januar.

of fasting about that time, for one or two days or more, but it was καθ' ἁπλότητα καὶ ἰδιωτισμὸν συνήθεια, 'a simple and a private custom[t].' But when it was made, it was only for the imperfect, and the men of the world, that spent their year in gathering money, and mispent their time; they only were intended in the constitution. This we have from St. Jerome[u]: "Jejunia à viris prudentibus propter eos constituta fuisse, qui magis sæculo vacant quam Deo;" "Some prudent men appointed the solemn fasts for their sakes, who spent their time in the affairs of the world, more than in religion."—And since it is consentingly affirmed, that the great end of the Lent fast is for preparation to the Easter communion, what use (at least to this great purpose) can it be of to those pious persons, who communicate every fortnight, or, it may be, every week in the year? But it is true, that the great end and ministry of the Lent fast was in order to the Easter communion, but it was of such persons, who, being admitted to public penance upon Ash-Wednesday, were reconciled and admitted to the communion upon Easter-day: which custom being not in use,—the use of Lent, in order to the chief end to which it did minister, is wholly lost. It was therefore true, which St. Jerome said, that Lent was for the imperfect and secular persons, for public penitents and persons convict of scandalous crimes, for men of the world, and not for the religious, who, every month or week, observe the religion of Easter, and live in a state of perpetual preparation. "Perfecti non tenentur lege jejunii," "They that all the year lived strictly, were not bound to the observation of Lent:" so Cassian; and from him Isidorus Hispalensis[x] and Rabanus Maurus[y]: and the same thing also was affirmed by St. Chrysostom, from whom Cassian, who was his scholar, might receive it[z].

11. (3.) Some of the ancient and primitive writers affirm Pope Telesphorus to have been the first author of Lent fast, about the year 136. So Eusebius, in his Chronicon, affirms, "Quadragesimale jejunium à Telesphoro per hoc tempus institutum ac præceptum quidam scribunt;" "Some write that Telesphorus commanded the Quadragesimal fast."—Scaliger believes this not to be the saying of Eusebius, as not being

[t] Apud Euseb. lib. 5. cap. 26.
[u] In Galat. lib. 2.
[x] De Offic. Eccles. lib. 1. cap. 36.
[y] De Instit. Cleric. lib. 2. cap. 20.
[z] Homil. 10. in Genes.

to be found in the Greek MS. copies: but however, till Scaliger's time, it was, in the middle ages of the Latin church and so downwards, believed; and it was affirmed expressly by Rabanus Maurus[a] and Rupertus[b].

12. (4.) The thing and the name were unknown in the church in the three first ages. This is very apparent in Tertullian, who, making his apology for the fasting-days of Montanus, says they are no such great matter, that the ψυχικοὶ 'the spiritual men' (so he calls the Catholics) should complain of them as of so intolerable a yoke upon the disciples. It was but ten days in all; two weeks, abating Saturdays and Sundays: and Sozomen[c] says, 'these two weeks were before Easter.' Now if the Catholics had known of our Lent, then, of forty days' fast, they would never have been so unreasonable as to complain of the ten days of Montanus; and that was all he imposed in the whole year, let the time be when it will. And yet this was more than the Catholics did; for when from their practice (as I noted before) Tertullian[d] would fain have drawn some warranty and countenance, he says that "the apostles did not quite extinguish all difference of days; for if they did, why did the Catholics then observe Easter in every year? why the fifty days of joy after it? why the Wednesday and Friday fast, and [*Good Friday*] the preparation-day? and why the Saturday fast? though indeed this ye never fast but at Easter." Here are also the solemnities both of feastings and fastings which the church then had: and therefore it is easy, without much diligence, to discover the weakness of those pretences which derive from more ancient record, but indeed are nothing but deceptions and interpolations. Such as is the sixty-ninth canon apostolical, which commands the observation of Lent to a clergyman, under pain of deposition,—to a layman, under excommunication. But the imposture of these canons, especially of the last thirty-six, amongst which this is one, are abundantly acknowledged by men of all persuasions. And so is that of St. Ignatius to the Philippians, "Despise not the Lent, for it contains an imitation of the conversation of our Lord." But of this epistle the ancients make no mention, and that

[a] Ubi supra, cap. 34. [b] De Divin. Offic. lib. 4. cap. 9.
[c] Sozom. lib. 7. cap. 19. Petav. in notis ad Epiph. p. 361.
[d] Tertull. de Jejun. cap. 14, 15.

it is supposititious, is very fully proved by the learned and most reverend Primate of Armagh [e], and it is so notorious as nothing can be more; for the author of this epistle condemns that which St. Ignatius and his neighbour-churches did, and calls him "a companion of them that killed Christ, that keeps Easter after the manner of the Jews." But of this enough. But as to the thing; if the Lent fast were of apostolical institution, it were strange there should be no mention of it in the certain writings of the three first ages: not a word of it in Justin Martyr or St. Irenæus; in Tertullian or Clemens Alexandrinus, in Clemens Romanus's genuine epistle to the Corinthians, nor in St. Cyprian. There is indeed a little shred taken out of Origen's tenth homily on Leviticus; "Habemus enim quadragesimæ dies jejuniis consecratos," "We have the days of Lent designed for fasting." But concerning this I can only say, that the homilies were supposed to be St. Cyril's, written in the fifth age, and published in his name; but whoever be the author, 'he that wrote them, destroys the letter of the Scripture all the way, out of his own brain, and is a man of no great authority,' says Bellarmine [f]; and therefore it remains certain, that, in the three first ages of the church, there was no mention made of the Quadragesimal or forty days' fast in Lent, and therefore it was not derived as a law or by rule from the apostles: but so strange a thing it was that there should be any common prescript fasts, that Apollonius accused Montanus for it; he was διδάξας λύσεις γάμων, καὶ νηστείας νομοθετήσας, "he taught the solutions of marriage, and made a law for fasting-days."

13. (5.) The Quadragesimal fast was relative and ever in order to the Easter feast; and therefore could not be before that, for whose sake it was appointed. But the feast of Easter was; and the Sunday festival was introduced by custom and arbitrary choice, for relaxation of labours, and the memory of Christ's resurrection; indeed it was at the beginning of the dissemination and prevailing of Christianity, but it was without a divine command, or an apostolical canon, if we may believe Socrates [g]. Τὴν ἑορτὴν τοῦ Πάσχα οἱ ἄνθρωποι—ἕκαστοι κατὰ χώρας ὡς ἐβουλήθησαν—ἐξ ἔθους τινὸς ἐπε-

[e] Dissert. ad Ignat. cap. 12. [f] De Verbo Dei, lib. 4. cap. 11.
[g] Lib. 5. cap. 22.

τέλεσαν. Οὐ γὰρ νόμῳ τοῦτο παραφυλάττειν ὁ Σωτὴρ ἢ οἱ ἀπόστολοι ἡμῖν παρήγγειλαν, "The feast of Easter and other feasts, every man, as he pleased in several places, did out of a certain custom celebrate the memory of the salutary passion. For neither our Saviour nor the apostles appointed this by a law." For the apostles did not trouble themselves about making laws for feasts, ἀλλὰ βίον ὀρθὸν καὶ τὴν θεοσέβειαν εἰσηγήσασθαι, "but to introduce piety and a good life." The rest was permitted to the good-will of the churches, who, being sensible of the great benefits of Christ's passion and resurrection, would quickly introduce a custom of such a pious gratitude; and Nicephorus[b] tells the same story, and in words very like. And the thing was not long in doing; it was so reasonable, so pious, so obvious, so ready and prepared, that at the very beginning all Christians did it, though, as it happens, in several churches after several manners. And supposing that these Greeks say true, yet it is no more lessening to the sacredness of that great feast, that the apostles did not intend to make laws concerning it, than it is to baptism, that St. Paul says, "Christ sent him not to baptize, but to preach the gospel;" that is, though to baptize was a holy office, yet he was to attend something, that was greater, and required his diligence and presence. But this adds some moments to the sacredness of that great feast, that the apostles left it to the piety and good-will of the churches, as knowing that the Spirit of God, which they had received to this and greater purposes, was more than sufficient for the leading them into a specification of their piety and gratitude upon such great causes: and it was a very great matter, that instantly all churches did consent in the duty, without any law or common teacher, but the Spirit of God and right reason. The result of this consideration is this, that if the apostles left the celebration of Easter and other feasts to the choice and piety of the churches, it is not likely that they bound the Lent fast by a canon, since the Lent was always acknowledged to be a preparation for Easter, and was never heard of before there was a Christian Easter. But I may have leave to interpose my conjecture (for it is no more): I suppose Socrates by 'pascha,' does not mean the day of the resurrection, but the day of the passion; and that he

[b] Hist. lib. 12. cap. 32.

intends only to say, that 'the solemnity of the Good Friday devotion, was not appointed by Christ and his apostles, but left to the piety and gratitude of the church.' The reasons of my conjecture are these. 1. Because Socrates calls it μνήμην τοῦ σωτηριώδους πάθους "the memorials of Christ's passion;" which the Easter Sunday was not, but of the resurrection. 2. Because we find the word 'pascha' used by the ancient fathers in the same sense; τὸ πάσχα νηστεύειν, said Timotheus Alexandrinus, "to fast on the Pasch:"—so ἡ νηστεία τοῦ Πάσχα, St. Clement calls the Good-Friday fast, "the Paschal fast," meaning, that then began the Jewish Passover, and then Christ our passover was offered for us. So Tertullian[i]: "Sic et die Paschæ, quo communis et quasi publica jejunii religio est, merito deponimus osculum," &c. The day of the Pasch is a public and a common day for the religion of fasting; which because it was never true of Easter-day, and being always true of Good Friday, he must mean this. 3. Because it is very probable[k] that the Easter festival was in use, though not commanded in the Apostle's time, therefore because they kept the memorial of the resurrection, the first day in every week; and therefore Socrates could not in all likelihood mean that day, but the 'pascha passionis,' 'the paschal passion,' not the paschal resurrection. And then upon this account, though this fifth argument will not prevail, it is because we need it not; for whatever destroys the premises in this case, does establish the conclusion. For if by 'pascha' he means the Paschal fast, that is Good Friday,—then he gives testimony, and that very consonantly to the prime antiquity, that it was left free, and undetermined by Christ and his apostles; but if he should mean the Easter feast, and did say true, yet it will follow from hence, that much more must the preceding fast be left undetermined.

14. (6.) If any man should say that kings are all created, as Adam was, in full stature and manhood, by God himself, immediately,—he could best be confuted by the midwives and the nurses, the schoolmasters and the servants, of the family, and by all the neighbourhood, who saw them born infants, who took them from their mothers' knees, who gave them suck, who carried them in their arms, who made them coats

[i] Lib. de Orat. cap. 14. [k] Vide lib. 2. chap. 2. rule 6. numb. 55, 56.

and taught them their letters, who observed their growth and changed their ministries about their persons. The same is the case of the present article. He that says our Lent, or forty days' fast before Easter, was established by the apostles in that full growth and state we now see it, is perfectly confuted by the testimony of those ages that saw its infancy and childhood, and helped to nurse it up to its present bulk.

15. For it is not to be denied, but that from the very first ages of the Christian church of which we have any records, it was with sacredness and religion observed, that before the feast of Easter they should fast. Τὴν νηστείαν τοῦ πάσχα, St. Clement calls it; τὰς παραδεδομένας νηστείας εἴς τε κοινὸν φυλασσομένας ὑπὸ τῆς ἐκκλησίας: so the council of Gangra[l] about the time of the Nicene council, "the fasts which were delivered in common, and observed by the church;"—τὰς ὡρισμένας νηστείας, "the appointed fasts," so Constantine called them. But this Paschal fast was nothing like ours, it was not our Quadragesimal; it was but a fast of one or two days at first, and in some places. For at first the Christians were very shy of receiving any love of ordinances and burdens to their consciences, as soon as ever they had entered into the liberty of Christians. They did all that reason and all that love would require: but if love was the parent of their observations, they would do them in love, and not in necessity, lest they should be again entangled in a yoke of bondage. That they kept their fasts with liberty, besides the foregoing testimonies, is expressly affirmed by Theodoret[m], who blaming the heretics that abstained from flesh and wine, as being abominable, "Ecclesia vero (saith he) de his nihil præcipit: neque enim horum usum interdicit. Ideo alii quidem permissis voluptatibus securi fruuntur, alii vero abstinent: et nemo qui recte sapiat, condemnat eum qui comedit; nam et abstinentia et participatio sunt in mentis potestate:" "But the church commands nothing in these things, and forbids not to use flesh and wine; and therefore some enjoy them freely, others do abstain, and no wise man condemns him that eats: for to eat or to abstain is in the power of every man's will."—Now, if the church had, from the apostles, received a law of the Lent fast, or if in the church there had been a law to command abstinence from flesh in Lent, it

[l] Apud Socrat. lib. 2. Hist. cap. 3. [m] Lib. 5. Hæretic. fabul. cap. 29.

had not been truly said of Theodoret, "Ecclesia de his nihil præcipit;" for a commandment for a time and a revolving period, certainly is a commandment. But this further appears in the variety, which is in all the actions and minds of men, when they are at their own choice. Of this a fragment of Irenæus, mentioned by Eusebius[n], is a great testimony: for there had been an unlucky difference between the western and eastern churches about their keeping of Easter, and Pope Victor was transported into heats upon the question, and received from St. Irenæus this sober advertisement, "For there is not only a controversy about the day of Easter, but about the kind of fasting. For some suppose they ought to fast but one day, others two, others more; some measure their day by forty hours of day and night. And this variety of them that observe the fasts, did not begin in our age, but long before us with our ancestors, who, as it is likely, retaining a custom introduced by simplicity and a private choice, did propagate it to posterity. And yet, nevertheless, all these lived peaceably one with another, and we also keep peace together; for the difference of the fast is so far from violating the agreement of faith, that it does commend it rather." Here was the Paschal fast observed by all men, but with great variety and a proportionate liberty. The cause of the variety was this, which was also the ground of their practice: they thought that the words of Christ, "When the bridegroom shall be taken from them, in those days shall they fast," were to be meant of the interval of Christ's death and burial, as we learn from Tertullian[o]. Now because it was but one whole day that Christ was in the grave, some fasted but one day, beginning on the Friday afternoon. Others consider that Christ was about forty hours dead, and the bridegroom was absent so long; and therefore reckoned their fast to forty hours, beginning from the ninth hour on Good Friday, and eating nothing till the morning of Easter-day: and this was the most severe and the most prevailing amongst them; and this is the Τεσσαρακοστὴ, 'the Quadragesimal fast,' this gave occasion to the name, which was kept when the forty hours were changed into forty days, and new analogies and new reasons found out for it,—and their fasting for the absence of the Bridegroom was changed into a fasting in imitation of

[n] Lib. 5. Hist. cap. 26. [o] Lib. de Jejun. cap. 14.

Moses and Elias and our blessed Saviour in the wilderness. Only, by the way, let me observe, that, at first, they had no appointed fasts, but of those hours in which the Bridegroom was taken from them, that is, none but the Paschal fast; as Tertullian[p] expressly affirms; "Illos dies jejuniis determinatos putasse in quibus ablatus est sponsus, et hos esse jam solos legitimos jejuniorum Christianorum;" "The Catholics had no other days appointed for fastings, no other were the legitimate fasting-days for Christians *(as they thought)*, but only those in which the Bridegroom was taken from them."

16. But St. Irenæus said that some fast one day, some two, and others more. Some kept the whole six days of the Passion week; we find mention made of it in Dionysius Alexandrinus[q], about the two hundred and fifty-fifth year of Christ, τὰς ἓξ τῶν νηστειῶν ἡμέρας, "the six days of fasting;" but he affirms that all do not equally observe them. For some fast all the six days, some two, some three, some four, some none. But by Epiphanius's[r] time the fast had possessed the whole six days almost every where, τὰς ἓξ ἡμέρας τοῦ πάσχα ἐν ξηροφαγίᾳ διατελοῦσι πάντες οἱ λαοὶ, "all the people spend the six days of the Pasch, or before Easter, in dry diet:" but by this time the word τεσσαρακοστὴ or 'quadragesima' had prevailed, and was used to signify the Paschal fast. The word was used in the council of Nice, which commanded two synods every year to be held in the provinces, and the first of them to be ἐν Τεσσαρακοστῇ "in the Quadragesima fast." But this did not signify the fast of forty days, for that was not yet brought into the church.

17. But first the matter is clear that the word 'quadragesima' is often used in antiquity and by other good authors to signify a set time of fast, but plainly less than forty days. St. Jerome[s] says, that the Montanists do make "tres in anno quadragesimas," "three Lents;" and yet two of them were but of five days apiece, and whether the third was more or less we cannot tell: and this Tertullian[t] plainly affirms, who was himself a Montanist. And this thing also came into the practice of some Catholics; for they did so too in the time of Amalarius[u], they kept 'tres quadragesimas,' 'three quad-

[p] Lib. de Jejun. cap. 2.
[r] Lib. 3. Exp. Fidei et Hæres. 75.
[t] Lib. de Jejun. cap. 15.
[q] Epist. can. ad Basil.
[s] Epist. 54. ad Marcel.
[u] Lib. de Offic. Eccles. cap. 57.

ragesimal fasts;' and yet that before Midsummer and that before Christmas were much shorter than forty days. The same word is several times used by Rabanus Maurus[x] and Durandus[y]. But that the use of the word may be no prejudice to the right understanding of the thing, we find the thing noted by Socrates[z], and wondered at exceedingly, that since there was so great difference in the number of days, yet all alike called it Τεσσαρακοστὴν, or 'the Quadragesimal fast.' The same also we find in Sozomen[a], noting that some did only observe three weeks of five days to the week, out of the number of the seven antepaschal weeks, and yet nevertheless called it 'Quadragesima:' and the same also we find in Nicephorus, who, I suppose, transcribed it from them: and in Cassian's[b] time, when the Lent fast came up to the number of thirty-six days, yet he still calls it the 'Quadragesima' or 'the forty days' fast:' and it is no wonder, if Rigaltius say true, that all the set and stationary fasts of the primitive Christians were called 'Quadragesimals.' But the first use of the word is in the Nicene council; unless the words of Origen be allowed to be good record: but yet both in Origen and in the Nicene council, though the word be used, yet without any remark of the number of the days, or intimation of it, until the council of Laodicea[c], which mentions more weeks than one in Lent, commanding to fast also upon 'the Thursday of the last week in Lent.' For by this time it was come to three weeks, in some places more, and in some less, as appears in Socrates, Sozomen, Cassian, and Nicephorus, above quoted.

18. But for the reason of the word 'quadragesima' there are various conjectures. Cassian[d] says it is an imitation of Christ's fast of forty days, and so had the name from thence. But he adds some little cabalistical things of the number of forty in the Scripture, which are to no great purpose. But his first conjecture is not altogether unreasonable; and Rigaltius[e] makes use of it, saying, that the apostles having obliterated the Jewish fasts, to which Christ's forty days' fast put an end, and asserted us into liberty, they would, upon that day on which Christ wrought our liberty for us, "nail-

[x] Lib. 4. de Instit. Cleric. cap. 1.
[y] Lib. 6. Rational. de 1a 40mæ Domin.
[z] Hist. lib. 5. cap. 22.
[a] Lib. 7. cap. 19.
[b] In notis ad Tertull. de Jejun.
[c] A. D. 460. can. 50.
[d] Collat. 21. cap. 28.
[e] Ubi supra.

ing the hand-writing of ordinances to his cross," consecrate a fast to the memorial of this great work of redemption for us; "ut obliteratis Judæorum sabbatis jejunia sua Christiani, quæ Domino suo tantula pro tantis offerrent, de jejunii Dominici spatio vocitarent;" "that the Christians might call their fast by a name taken from the duration of the Lord's fast, that since they could not attain to that great fast, they might at least have it in venerable memory."—But this although it be ingenious and pretty, yet it is something violent, and hath no warrant from antiquity; and the question is better answered from the words of Irenæus in Eusebius, who says that they who kept the Paschal fast would, some of them, produce the fast to forty hours: now the whole fast being in memory of the Bridegroom's being taken away, and he having been absent, as they computed it, forty hours, this proportion did better carry the analogy, and therefore easily carried away the name, and a quadragesimal of hours is as proper as a quadragesimal of days, and hath a better warranty than any other conjecture. But this I remarked before.

19. But afterward the number of weeks increased: it came in some places to six and seven weeks; so Cassian[f]. But it was 'diverso more,' for some would fast Saturdays, and some would not; but they made it but to be thirty-six days however: so we find it in St. Gregory[g], that forty-two days were the appointment of Lent, but taking away the Sundays, six-and-thirty days remain for fasting. But, in all this whole affair, there was nothing yet universally determined by any law of the universal church. "For in Rome, about the year 437, they fasted but three weeks before Easter, and out of them they excepted Saturdays and Sundays[h]. But in Illyricum, in Greece, and Alexandria, they begin their Lenten fast above six weeks before Easter. Others begin seven weeks before Easter, but fast by intervals, and observe but fifteen days in all: and yet all call this the Quadragesimal fast:" so Socrates[i]. And St. Chrysostom says it was the custom against Easter to ask every one, how many weeks he had fasted; and you should hear some answering two, some three, some all.

[f] Collat. 21. cap. 27. [g] Lib. 40. Homil, hom. 16.

[h] Hæc clausula inseritur in loco non suo: oportuit enim post narrationem de ecclesiis Græca et Alexandrina interseri. Videat lector Hugonem Menardum in notis ad Gregor. Sacram. qui etiam aliter emendat hunc locum satis mendosum.

[i] Lib. 5. cap. 22. homil. 16. ad Antioch.

For at Constantinople the Lent was longest: it was of seven weeks there and all up unto Phœnicia, as Sozomen [i] and Nicephorus [k] report: but all this while with liberty, by custom, and without a law. St. Austin [l] tells, that, in some places, they would not fast the Thursdays in Lent: indeed the council of Laodicea had commanded they should, but that was but provincial, and did not oblige, and was not received every where; and that saying which is reported out of the Constitutions of St. Clement, might prevail as far, 'jejunium quintæ hypocritarum est.' But at Rome this was then observed, they did not fast on Thursdays, nor yet on Tuesdays, or they might choose: so we find in St. Leo [m] exhorting them to the Monday, Wednesday, Friday, and Saturday fast, and on Saturday to watch beside. And because of the defalcation of these days in every week, some that were very zealous, made up their Lent to be eight weeks, and began it on Sexagesima Sunday; but at last it settled upon Ash-Wednesday, and hath endured so to this day in many of the western churches.

20. Now if all this be not sufficient to prove, that the forty days' fast of Lent, was not a canon or institution apostolical, I cannot tell by what measures the question can be filled: and if the apostles were the authors of it, yet because the churches kept themselves in great liberty and variety, it is certain, that, if they did so still, there would be no diminution to religion. For the use of its being wholly for preparation to the Easter communion, and the setting apart some portion of our time for God's service,—it can then only be of use, when it ministers to such ends with an advantage so great as to recompense the trouble, and so material as to quit it from a vain observance. But how it can be enjoined and how it ought to be practised, I shall consider in the inquiries concerning the condition of ecclesiastical laws. Here I was only to quit the conscience of this snare, which is laid for her by some unskilful fowlers, and to represent that the apostles did not, by any rule or canon, oblige the Christian churches.

21. That which remains is this, that we consider that it is, and ought to be, no prejudice to this liberty, that St. Je-

[i] Lib. 5. cap. 10.
[l] Epist. 118. ad Januar.
[k] Lib. 12. cap. 34.
[m] Serm. 4. de 10ma.

rome calls Lent 'an apostolical tradition.' For it was very easy for them who loved the institution, and knew it very ancient, and that the custom of it did descend from apostolical persons, to call it 'a tradition apostolical.' It is no wrong to St. Jerome, if we think he did so here: for he did as much as this comes to, in the question of the Saturday's fast; for in his epistle to Lucinus he says, "Unaquæque provincia abundet in sensu suo, et præcepta majorum leges apostolicas arbitretur;" "Let every province abound in their own sense, and suppose the precepts of their ancestors to be apostolical laws." But that the churches had no such law upon them, but were at liberty, appears from all the premises; which I sum up with the words of St. Austin [n]: "The Christians, not that the meats are unclean, but for mortification, do abstain from flesh and fruits; some few always, or else at certain times: 'sicut per quadragesimam fere omnes, quanto magis quisque vel minus voluerit, seu potuerit;' 'as in Lent almost all men, more or less, according as every man is able, or as every man is willing.'"

22. He that desires to see more particulars concerning the history, the original, the variety, and increase, of Lent, may, if he please, read them in Cassian, in Amalarius, Alcuinus, and Rabanus, of old,—and of late, in Durandus, in Hugo Menardus' (a benedictine) notes in Gregor. Sacramentarium, in Petavius's notes upon Epiphanius, Rigaltius upon Tertullian, Scaliger's admirable animadversions upon Eusebius, in that excellent epistle of Erasmus to the Bishop of Basil de 'Interdicto Esu Carnium,' in Delaunoy, Filesac, and Daille [o]. Out of these any man may satisfy his curiosity; I have endeavoured only to satisfy the conscience.

23. Concerning the weekly fasts of Friday and Saturday, the former of them is of great antiquity in the church, as being in use in Tertullian's time, and without variety always observed after it once began. We find the Wednesday and Friday fast mentioned by Clemens Alexandrinus [p], and the Wednesday station is equally in Tertullian. But the Saturday fast was, for some ages, counted abominable in the whole church; but it came into the Latin church in time, but with so much scandal to the Greeks, that, in the year of our Lord 707 they

[n] Contr. Faustum Manich. lib. 30. cap. 5. [o] De Jejuniis et Quadragesima. [p] Stromat. 7.

excommunicated them that fasted on the Saturday, and to this day persevere in the same mind. But that neither one nor the other was of apostolical institution, is, of itself, clear by the consequence of the former discourse concerning Lent; the apostles having made no laws concerning fasting-days, as I have made apparent. The Rogation fast all the world knows was instituted by Mamercus bishop of Vienna: and as for the Ember-weeks, they can pretend to no antiquity that is primitive, and rely for their authority upon a spurious epistle of Pope Calixtus, which is pretended to have been written about the year 221, and which is abundantly detected of forgery by many persons, but especially by Mr. Blondel. Tertullian's words are a hatchet to cut off all fasting-days from pretending to apostolical authority, affirming that the Montanists did fast but two weeks in the whole year, and in them not on Saturdays and Sundays (though St. Jerome is pleased to lay three Lents to their charge), and that the Catholics blamed them for imposing so much; but themselves did fast only upon those days the Bridegroom was taken from them, that is, the Paschal fast; that they did sometimes interpose half-fasts, and live on bread and water for some time, but "ut cuique videbatur, hæc ex arbitrio agentes, non ex imperio;" "as every man saw cause, doing these things by choice and not by command[q]."

24. The result of this discourse is this,—that the apostles did not lay a yoke upon the disciples' neck in the matter of fasting, much less in the forty days' fast of Lent; that, as in relation to the apostles, the conscience is at liberty.—Now whether or no any positive constitution of the rulers of our churches can or do oblige the conscience to the observation of Lent, and how far, I shall consider in the next paragraph of this chapter.

[q] Contra Psych. cap. 2. 13. 15.

RULE XIV.

The Canons of the ancient general and provincial Councils are then Laws to the Conscience, when they are bound upon us by the Authority of the respective Governors of Churches.

1. A GENERAL council is nothing but the union of all the ecclesiastical power in the world. The authority of a general council in matters of government and discipline is no greater, no more obligatory, than the authority of a provincial council to those who are under it. A general council obliges more countries and more diocesses, but it obliges them no more than the civil and ecclesiastic power obliges them at home. A general council is a union of government, a consent of princes and bishops, and in that every one agrees to govern by the measures to which there they do consent: and the consent of opinions adds moment to the laws, and reverence to the sanction; and it must prevail against more objections than provincial decrees, because of the advantage of wisdom and consultation which is supposed to be there; but the whole power of obligation is derived from the authority at home. That is, if twenty princes meet together and all their bishops, and agree how they will have their churches governed, those princes which are there, and those bishops which have consented, are bound by their own act; and to it they must stand till the reason alters, or a contrary or a better does intervene; but the prince can as much alter that law, when the case alters, as he can abrogate any other law, to which he hath consented. But those princes which were not there, whatever the cause of their absence be, are not obliged by that general council; and that council can have no authority but what is given them by consent; and therefore they who have not consented, are free as ever.

2. The council of Florence (so called because though it was begun at Ferrara, yet it was ended there), Pope Clement VII. calls the 'eighth' general council in his bull of April 22, 1527; yet others[r] call it the sixteenth: but it was never received in France, as Panormitan[s] tells us: for the king

[r] Vide Surium in epist. ad lectorem, ante concil. Ferrar. tom. 4. concil.

[s] In Tract. de concil. Basil. circa princ. p. 6. Vide etiam Nicolaum de Clemangiis. Vide proœmium Pragmat. Sanct.

of France did forbid, expressly and upon great penalties, that any of his subjects should go to Ferrara to celebrate that council; and after it had been celebrated, and Charles VII. was desired by Pope Eugenius to accept it, he told the legates plainly, that 'he had never taken it for a council, and he never would.' The council of Basil, though the king of France had sent his ambassadors thither, and had received it as a council, yet he approved it but in part; for he rejected the thirteen last sessions, and approved only the first two-and-thirty; some of them as they lie, others with certain forms and qualifications; and this was done 'to fit and accommodate them to the exigencies of the times and places and persons,' saith Benedict[t], a French lawyer. And upon the like accounts the last council of Lateran is there rejected also. Thus, in England, we except of the council of Trent; and excepting the four first general councils, which are established into a law by the king and parliament, there is no other council at all of use in England, save only to entertain scholars in their arguments, and to be made use of in matters of fact, by them to understand the stories of the church. Where any thing else is received into custom and practice of law, it binds by our reception, not by its own natural force.

3. But I have already spoken sufficiently of this thing[u]. I now only mention it to the purpose, that those religious and well-meaning persons,—who are concluded by the canon of an ancient council, and think that whatever was there commanded, lays some obligation upon the consciences of us at this day, and by this means enter into infinite scruples and a restless and unsatisfied condition,—may consider, that the ancient doctors of the church had no jurisdiction over us, who were born so many ages after them: that even then, when they were made, they had their authority wholly from princes and consent of nations; that things and reasons, that jurisdictions and governments, that churches and dioceses, that interests and manners, are infinitely altered since that time; that since the authority of those fathers could not be permanent and abide longer than their lives, it being certainly not greater than that of kings, which must needs die with their persons, that their successors may be kings as

[t] Guil. Benedict. in repetit. cap. Raynutius.
[u] Chapter 3. rule 7. and chapter 4. rule 5.

well as they, and not be subjects of the dead, the efficacy of their rules must descend upon succession by a succeeding authority; and therefore they prevail upon us by a new force, by that which is extrinsical to them; and therefore in such cases we are to inquire, whether the thing be good; and if it be, we may use it with liberty, till we be restrained,—but we may also choose; for then we are to inquire, whether the thing be a law in that government, to which we owe obedience. For that the fathers met at Laodicea, at Antioch, at Nice, at Gangra, a thousand, eleven hundred, or thirteen hundred, years ago, should have authority over us in England so many ages after, is so infinitely unreasonable, that none but the fearful and the unbelievers, the scrupulous and those who are δοῦλοι τῇ φύσει 'of a slavish nature,' and are in bondage by their fear, and know not how to 'stand in that liberty, by which Christ hath made them free,'—will account themselves in subjection to them. If, upon this account, the rulers of churches will introduce any pious, just, and warrantable canon, we are to obey in all things, where they have power to command; but the canon, for being in the old codes of the church, binds us no more than the laws of Constantine.

RULE XV.

The laudable Customs of the Catholic Church, which are in present Observation, do oblige the Conscience of all Christians.

1. This we have from St. Paul, who reproves the contumacy and regardless comport of those who, against the usages of Christians and the places where they lived, would wear long hair: "We have no such customs, nor the churches of God." In such cases where there is no law, the manners of Christians introduce a law so far, that we cannot recede from it without some probable cause; or if we do, we cannot do it without scandal and reproach. And indeed it is an act of love to conform to the customs of Christians with whom we do converse, who either will think you blame their custom, or despise their persons, if you comply not. St. Austin[x] gave his advice to the same purpose; "In his rebus de qui-

[x] Epist. 76. ad Casulanum Presbyter.

bus nihil certi tradit Scriptura Divina, mos populi Dei vel statuta majorum pro lege tenenda sunt. Et sicut prævaricatores divinarum legum, ita contemptores ecclesiasticarum consuetudinum coercendi sunt:" "If the Holy Scriptures have not interposed in the particular, we must keep the customs and decrees of our ancestors as a law: and as they that prevaricate the divine laws, are to be restrained, so are all they that despise the customs of the church."—It is a Catholic custom, that they who receive the holy communion, should receive it fasting. This is not a duty commanded by God; but unless it be necessary to eat, he that despises this custom, gives nothing but the testimony of an evil mind.

2. But this is first to be understood in such customs as are laudable, that is, such which have no suspicion or moral reproach upon them, such which are reasonable and fit for wise and sober persons. It was a custom of the primitive church, at least in some places, not to touch the earth with the bare foot within the octaves of Easter: this was a trifle, and tending to fantastic opinions and superstitious fancies, and therefore is not to be drawn into imitation; only so long as it did remain, every man was to take care he gave no offence to weak persons, but he was to endeavour to alter it by all fair means and usages. It was a custom in many churches anciently, and not long since in the church of England, that in cases of the infants' extreme danger, the midwives did baptize them. This custom came in at a wrong door, it leaned upon a false and superstitious opinion; and they thought it better to invade the priests' office, than to trust God with the souls, which he made with his own hands and redeemed with his Son's blood. But this custom was not to be followed, if it had still continued; for even then they confessed it was sin, "factum valet, fieri non debuit;" and evil ought not to be done for a good end. "Quod si à mulieribus baptizari oporteret, profecto Christus à matre baptizatus esset, et non à Joanne: aut cum nos misit ad baptizandum, misisset mulieres nobiscum ad hoc: nunc vero nusquam neque jussit Dominus, neque per Scripturam tradidit, utpote qui naturæ convenientiam et rei decorum nosset, tanquam naturæ auctor et legislator," said the author of the Constitutions under the name of St. Clement[y]: "If women might

[y] Lib. 3. cap. 9.

be suffered to baptize, Christ need not have gone to St. John, but might have been baptized by his mother; and Christ would have sent women along with the apostles, when he gave them commission to preach and to baptize. But now our Lord had neither commanded any such thing by his word, or in Scripture; for the author and lawgiver of nature knew what was agreeable and decent for their nature."—To this agrees that of Tertullian[a]; "Non permittitur mulieri in ecclesia loqui, sed nec docere, nec tingere, nec offerre, nec ullius virilis muneris, nedum sacerdotalis, officii sortem sibi vendicare;" "A woman is not permitted to speak in the church, nor to teach, nor to baptize, nor to offer, nor to do the office of a man, much less of a priest[a]." This custom therefore is of the nature of those, which are to be laid aside. Οὐδεὶς βαπτίζει εἰ μὴ χειροτονίαν ἔχει, "No man baptizes but he that is in holy orders," said Simeon of Thessalonica; and I think he said truly. But above all things, opinions are not to be taken up by custom, and reduced to practice: not only because custom is no good warranty for opinions, and "voluntas fertur carere oculis, intellectus pedibus," "the will hath no eyes, and the understanding hath no feet;" that is, it can do nothing without the will, and the will must do nothing without that; they are a blind man and a lame, when they are asunder; but when they are together, they make up a sound man, while the one gives reason, and the other gives command: but besides this, when an opinion is offered only by the hand of custom, it is commonly a sign of a bad cause, and that there is nothing else to be said for it; and therefore it was a weakness in Salmeron[b] to offer to persuade us to entertain the doctrine and practice of indulgences, purgatory, invocation of saints, images, and the like, because they are customs of the church, meaning his own.

3. This is to be understood also of the customs of the Catholic church. For if the churches differ, it is indifferent to take either or neither, as it may happen. Clemens Alexandrinus[c] said it was a wickedness to pull the beard, because it is our natural, it is a generous and an ingenuous ornament: and yet Gregory VII.[d] bishop of Rome,

[a] Lib. de Virg. Veland.
[a] See the Divine Institution of the Order and Offices Ministerial, sect. 4.
[b] Disput. 18. in 1 Cor. xi.
[c] Lib. 3. Pædagog. cap. 3.
[d] Lib. 8. Regist. epist. 10.

made Archbishop James shave his beard close, pretending that it had been always a custom in the western churches; "Consuetudini sanctæ obedire coegimus," "We have constrained him to obey the holy custom." In such cases, where several churches have several usages, every church is to follow her own custom, and every of her subjects to obey it.

4. Though every subject is tied to the custom of his own church, yet he is not to give offence, when he converses with another church, that hath a differing custom: according to that rule and example of St. Ambrose[e]; "Quando hic sum, non jejuno sabbato: et ad quamcunque ecclesiam veneritis, ejus morem servate, si pati scandalum non vultis aut facere;" "When I am at Milan, I do not fast on the Saturday; when I am at Rome, I do: and to whatsoever church ye shall come, keep the custom of that church, if ye will neither give nor receive offence."—And these words St. Austin[f] made use of to this very purpose: "Totum hoc genus liberas habet observationes, nec disciplina ulla est in his melior gravi prudentique Christiano, quam ut eo modo agat quo agere viderit ecclesiam, ad quamcunque forte devenerit." The best way is to do as that church does, where you happen to be. And in the same instance St. Jerome gave answer to Lucinus: "Servandam esse propriæ ecclesiæ consuetudinem," "The custom of the place of our own church is to be observed." And therefore, at Milan it is counted a violation of their rights, when the Roman priests come into the Ambrosian churches, and do refuse the missal of St. Ambrose, but use the Roman. It is a custom in the church of England to uncover the head, or to bow the knee, when the name of Jesus is named: the custom is not only innocent but pious, and agreeable to the duty of every Christian, and therefore, abstracting from the injunction, the custom itself is sufficient to exact conformity of all modest persons. But if a son of the church of England shall come into other Protestant churches who use it not, he is to comply with them in the omission, unless himself be persuaded that it is a divine commandment; and yet even then also, the specification and the circumstances of time and place may be undetermined, and leave him in a capacity to comply for a time, and in a limited place.

[e] Epist. 86. [f] Epist. 118.

5. It is required, that the custom be of present observation, or else it does not oblige the conscience. Thus it is a custom of the Catholic church, that, at the baptizing of infants, there be godfathers and godmothers. This custom is still of use in the church of England: and although much of the reason, for which they were first introduced is ceased, and the case altered; yet it is enough to every man that is a subject, that it is the custom: and therefore if any man shall dispute and prove that the thing itself is not now necessary, that is no warranty to him to omit it, so long as the custom is allowed and upheld, and is no evil. But if the custom be left in a church,—that it was a catholic custom, and of long use in the church, is of no obligation to the conscience. Socrates[s] tells that "omnes ubique in orbe terrarum ecclesiæ," "all the churches in the world, every week upon Saturday, celebrate the mysteries:" "Alexandrini tamen et Romani ex antiqua traditione istud facere renuunt": "But the churches of Alexandria and Rome refuse to do so, because they have an ancient tradition to the contrary." And in this they had their liberty. It was a long and a general custom in the church, upon all occasions and motions of solemnity or greater action, to make the sign of the cross in the air, on the breast, or on the forehead; but he that, in England, should do so upon pretence, because it was a Catholic custom, would be ridiculous. For a custom obliges by being a custom amongst them, with whom we do converse, and to whom, in charity and prudence, we are to comply: and therefore to an action, that was a custom there, where it is not a custom, must be done upon some other reason than because it is a custom; or else it is done, because there is no reason. It was a custom of the Catholic church to reserve infants, all the year, till Easter, to be baptized; except it were in cases of necessity or great danger: but "we have no such custom now, nor the churches of God;" and therefore to think we are bound to comply with that or any such custom, is to make ourselves too fond admirers of the actions, and more than servants to the sentences and customs, of ancient churches.

6. An ecclesiastical custom against an ecclesiasti-

[s] Lib. 5. Hist. cap. 21.

cal law does not oblige the conscience. It does, in many cases, excuse, but when there is no scandal accidentally emerging, it never binds us to follow it. I say, it can excuse from penalty, then when the ecclesiastical law hath been neglected, because the governors are presumed to do their duty; and therefore if they who made the law, suffer it to be commonly broken, it is to be supposed they are willing the law should die: and this is the sense of that in the comedy[h]; "Mores leges perduxerunt jam in potestatem suam," customs give limit to laws; and they bind according as the manners of men are. And this the lawyers extend even to a custom that is against the law of God. So the presidents of Sena[i], at the entry into their office, take an oath in form that they will never receive bribes; and yet they do so, and are known to do so, and, because of the general custom, are never punished: and much of the same nature are the oaths taken at the matriculations and admissions into universities and offices respectively, concerning which it were very well there were some remedy or prevention. But if it can be understood, that the lawgiver intends the law should be in force, and that the negligence of his ministers, or the stubborn and uncomplying nature of the subjects, is the cause of the want of discipline; then the conscience is obliged to the law, and not excused by the custom[k]. And yet further, when the law is called upon, then although there be a custom in the church against the canon, it neither preserves from sin, nor rescues from punishment: "Quia lex derogat consuetudini," say the lawyers; when the law is alive, the custom is dead, because the custom took its life from diminution of the law; and when there is a law actually called upon, the custom to the contrary is a direct evil, and that against which the law is intended, and which the law did intend to remedy. The church hath made laws, that no man shall fast upon the Lord's day, nor the great festivals of the year: if a custom of fasting upon Christmas-day should, in evil and peevish times, prevail, and the law be unable or unwilling to chastise it, but suffer it to grow into evil manners; when the law is again warm

[h] Plaut. Trinum. act. 4. sc. 3, 30. Ernesti, vol. 2. pag. 421.
[i] Baldus in lib. Observare, sect. Proficisci, circa fin. ff. de Officio Proconsul. et Leg.
[k] See the sixth rule of the last chapter of this book.

and refreshed, and calls for obedience, the contrary custom is not to be pretended against the law, but to be repented of. In the church of England there is a law, that when children are baptized, they shall be dipped in the water; only if they be sick, it shall be sufficient that it be sprinkled upon them: but yet the custom of sprinkling all does prevail. In this case we are to stand to the law, not to the custom, because the law is still in force, and is actually intended to prevail according to the mind of the church, and it is more agreeable with the practice, the laws, and customs, of the primitive church, and to the practice of Christ and his apostles. But of this I shall speak again in some of the following numbers.

7. An ecclesiastical custom must be reasonable or useful, or it cannot oblige the conscience, except to avoid scandal, for that is in all things carefully to be observed, right or wrong, so it be not a sin against God; customs must be kept, when the breaking them is scandalous. But excepting this case, an unreasonable custom does not oblige. For no man is bound to be a fool, or to do a foolish action. Now a custom in the canon law is concluded to be reasonable, if it tends to the good of the soul. In the civil law it is allowed to be reasonable, if it tends to any public good. Thus it is a custom, that judges should wear their robes upon their seats of judicature; that the clergy wear blacks. "Doctores portant variam, quia habitus virum ostendit," saith the law[1], and that priest were a strange, peevish, or a weak person, who should choose to wear gray, because there is no religion in the colour: his religion in this would have nothing else: and though these things tend not to the good of the soul, yet they tend to the good of the public; they distinguish men, that honour may be given to them, to whom honour belongs.

8. For it is considerable, what the wiser lawyers say, 1. That a custom is good, if it contains 'bonum honestum,' 'any honesty' or matter of public reputation. Thus it is a custom, that civil persons should not walk late in the night, but be in their houses at seasonable times; it is a good custom, that bishops and priests abstain from going

[1] L. Stigmata, C. de Fabri.

to taverns; this custom is reasonable, and therefore does oblige those, that are concerned in it; 2. A custom is good, if it contains 'bonum commune,' if it be for the 'common good:' and of this sort there are many customs, in every nation, which are passed into laws, as that, in the cause of dowries, the judge should proceed summarily; that a fact be tried in the country where it was done; that when any man is accused, he should have his accusers brought before his face. And thus also, in the laws ecclesiastical, there are very many of this nature; as, that when bishops visit their churches, there be allowance of procurations and synodals, and aptness for their entertainment; that when we see a bishop, we beg his blessing; that when we come to a city, we first go to the cathedral to pray, then to the bishop to be blessed and prayed for; that the contract of marriage be publicly solemnized in churches after three publications; that children ask their parents' benediction: these things are of public use, for the advancing of a necessary duty, for the mutual endearment of relatives, for the establishment of piety, for the conciliating authority, and to many other good purposes, which whosoever can advance by the keeping of a custom, and complying with the manners of the church where he lives, is not to be excused, if he will be stubborn and singular and proud. 3. Baldus[m] says, "Bona est consuetudo, quæ continet bonum honorabile;" "It is a good custom, that gives honour and regard to whom it is due."—Thus it is a custom, that the consecration of bishops should be in public churches; that the degree of doctor, because it is an honour, be not conferred sneakingly and in conventicles. And upon this account, when any custom is honourable to religion or to a mystery, it is not to be omitted, because the custom is good, and, in some proportions, ministers to religion and its advantage.

9. Thus the ministers of religion, when they officiate, are, by an immemorial custom, vested in albes or surplices: it was intended as an honour to the religion, because the white and the purple colours are the ensigns of civil and ecclesiastical dignity respectively, and are in honour to each other alternately indulged, and kings wear albes, and bishops and

[m] C. Si judex laicus de sent. excommunicat. lib. 6.

judges wear purple; and our blessed Saviour was pleased to call it the glory of Solomon, when he was clothed in the purest linen of Egypt, whose whiteness, though very bright, yet it fell short of the natural whiteness of the lily. Glory is nothing but the excess and greatness of honour, and therefore these garments, which were glorious upon Solomon, at least were given to the religious as ensigns of honour: the same which the epigram says of the purple mantle, which was stolen from Crispinus,

Quisquis habes, humeris sua munera redde, precamur:
Non hoc Crispinus te, sed abolla rogat.
Non quicunque capit satcratas murice vestes:
Nec nisi deliciis convenit iste color[n].

Such garments are not fit for every shoulder, they are marks of honour, and the delicacies of the greatest and the worthiest men. But that the white garment was given to religion, it had, besides the honour to the persons, the [o] signification and emblem of a precept: it signified purity and truth, which, in Philostratus, in the image of Amphiaraus is said to be clothed with garments of snow, and covered with the purest whiteness; Clemens Alexandrinus[p] writes, that Cæus the sophister, in the description of Virtue and Vice, described Virtue in a white robe; and so does [q] Themistius invest Truth, sitting upon an adamant, holding a bright splendour in her hand, and clothed with an albe. Concerning this St. Clement of Alexandria[r] spake much, even as much as the thing itself will bear: for it being nothing but the colour of a garment, is not proved to be necessary, and therefore not to be valued in such a quality: but yet neither is the custom of that colour to be despised, because that colour is a good emblem, and hath as much advantage as a colour can have; and therefore there can be no reason to despise the thing, or peevishly to go against the custom, where it is quitted from abuse. But I shall add this to it, which is warranty enough for the church's choice, that the primitive Christians, who were free enough from any superstitious fancy concerning it, did nevertheless particularly affect and choose this colour. They saw that the saints in the Revela-

[n] Martial. lib. 8. epigr. 48.
[o] Vide Lilium. Giraldum Syntag. 1. Deorum, titulo de Diis ex humanis actionibus: et Chartarium lib. de Deorum Imaginibus.
[p] Lib. 2. Pædag. cap. 10. [q] Orat. 3. sub finem.
[r] Ubi suprà, et lib. 3. cap. 11.

tion had λευκὰ ἱμάτια, 'white garments,' and they were dipped in the blood of the Lamb: and St. Anthony, to represent himself a Christian, did go in white, as St. Athanasius tells of him. Eunapius[s] tells that the monks in Egypt went in black; and that many Christians that lived in other places, did so too, for modesty's sake and gravity, in humility and abjection, who please, may see demonstrated by many instances in Baronius[t]: and that is a good precedent to warrant the custom of the ordinary clergy-habit. But yet it is evident, that very many Christians were pleased rather to use the simple and native colour of truth, the emblem of purity: and Synesius[u] writing to one John the monk that chose to go in a black coat, writes that which is enough to be said in this whole affair; "Atqui nihilo deterius erat, si candida foret: splendidissimæ quippe naturæ dicatum ac consecratum id potius fuerit, quod in his quæ sensu percipiuntur, purius atque lucidius est. Sed si pullum ideo colorem probasti, quod id aliorum, qui ante te usurparunt, imitatione feceris; laudo quicquid Dei causa suscipitur:" "But it had been no worse if you had chosen the white, as that which is agreeable to the nature of splendour and purity, and brighter and purer to the eyes. But if you chose the black garment, because it was the custom of others that went before you, it is well; I commend any thing that is done for God, and for the cause of piety."—"Color albus præcipue Deo decorus," said Cicero[x]: 'quod sit index puritatis et nitelæ, omnemque fucum excludat veritate nativa contentus;' 'The white garment is most comely for religion, as being content with its native simplicity, and an indication of brightness and purity.' Upon this account it is a custom of clothing the bodies of the dead in white; "for they that are dead, are justified from sins," and they are candidates of immortality[y]. But, it may be, this was too much to be said of so small a thing: I instanced in this, to show that this colour was intended for an exterior honour to religion, and that is suffi-

[s] Sub finem Vitæ Ædesii. [t] An. Dom. 57. n. 77. [u] Epist. 146.

[x] Lib. 2. de Legib. Rath. Davis, c. 18. pag. 181.—Cicero borrows the observation from Plato, de Legibus, lib. 12.: χρώματα λευκὰ πρώτιστα θεῖς, κ. τ. λ. The latter part of Bp. Taylor's quotation 'quod sit index, &c.' does not belong to Cicero. (J. R. P.)

[y] Videat lector, si placeat, Plutarchum, lib. de Iside sub initium, et 26. Rom. quæst. et Theodor. orat. 1. de Provid. et Elian Cretensem in Nazian. orat. 4. in initio, Arrianum, lib. 3. cap. 1. et Philon. Jud. lib. de Plantat. Noe.

cient, say the lawyers to make a custom reasonable; and, if it be reasonable, it must be complied with.

10. A custom whose reason is not known, yet if it be of an immemorial time, and does transmit a right to ecclesiastical persons, is not, without great reason and evident necessity or public utility, to be refused. Thus it is a custom in the church of England, that certain rights be paid to the rector of the church, if the corpse be interred in the chancel: and though, in some places, this did run into great abuse, which was excellently reproved by that learned and good man Sir Henry Spelman, ὁ μακαρίτης, in his learned and pious tract 'de Sepultura;' yet the thing was not wholly to be blamed for the abuse' sake, and the rights of any man are not easily to be snatched away, because he cannot prove how he came by them, if he have had them long in possession. The thing was to have been reformed; but not after the new manner, that is, wholly taken away. "Consuetudo, cujus initii memoria non sit, in contrarium præsumitur rationabilis," say Geminianus, Cardinal Alexander, and Panormitan; and they instance in a prelate receiving money beyond his procurations in his visitation. For though the reason of it be not now known, yet it is presumed at first, there was a reason; and though we have lost the record, yet he must not lose his right; unless that right of his be manifestly other men's wrong. But this instance is to be understood so, that the sepulture be first performed, and the charity and the ecclesiastical right be done to the dead; for these things cannot be contracted for: but when the piety is performed, the oblations of the faithful which at first were voluntary, and afterward came into custom, and so transferred a right, may be received by the rector, but must not be detained by the heir. Here in Ireland, there is a custom of receiving oblations at the baptism of infants; but if the priest refuses to baptize the child till he be secured of the money, he is a direct simoniac, for he contracts and takes a price for the sacrament: but if he confer the sacrament, to which he is tied by his charge and by the laws of God and man, then afterward he hath a right to the oblation, which, by law or custom, was to be given. But the office is to be done without it: for the infant hath a right to the sacrament, before the priest hath a right to the offering; and that came in by the laws of God,—this, by the customs of men.

11. A custom ecclesiastical, that is but of a legal and presumed reasonableness, does oblige us to a conformity. I call that a legal or presumed reasonableness, when the law in certain cases does suppose it reasonable; and though it be not known to be naturally or precisely so, yet because it is not known to be unreasonable, but there is a probability to conjecture, that it entered upon a right cause, it is permitted and allowed. This happens in two cases. The first is, when a custom is besides the law, and not against it. For if it be against a law, it ought not to prevail at all, unless it be precisely reasonable; that is, unless the law, in the changing of affairs, or in itself at first, be unreasonable; for in that case, a custom that is naturally reasonable, may be admitted; and, if it be, must be observed. But if it be only besides the law, and not against it, then it is presumed to be reasonable, "hoc ipso quod introducta est," say the doctors, "therefore because it is introduced:" and the reason is, because every thing is presumed to be reasonable, that is done generally, unless it be known to be unreasonable; and the very interests of peace, and the reputation and honour of mankind, require this, without any more inquiry; save only that this be added,—that if the custom, introduced besides law, be either universal, or of an immemorial beginning, the law presumes the more strongly of the reasonableness of it; and therefore, in these cases, it ought to prevail the rather. For to this sense is that rule of St. Austin[y]: "Illa quæ non scripta sed tradita custodimus, quæ quidem toto terrarum orbe observantur, dari intelligimus vel ab ipsis apostolis, vel plenariis conciliis, quorum est in ecclesia saluberrima auctoritas, commendata atque statuta retineri;" "Those things which are delivered to us not by writing, but by tradition [or custom], which are observed in all the world, we understand them to be either retained by the appointment or commendation of the apostles, or some general councils, whose authority in the church is of great use." That is, when the custom is universal and immemorial. For the first we presume it to be very reasonable, it could not else have easily prevailed upon the whole church: and for the second, we suppose it to have had a very good beginning; for it adds moments to the custom, that, when we know nothing to the contrary, we presume the best of its original. Not that we ought to con-

[y] Epist. 118. cap. 1.

clude or to believe a custom to have come from the apostles, if it be universal or immemorial; but that we ought to regard and reverence it as if it did, because we know not, in some cases, whether it did or no. But if it be either one or other, it is sufficient to oblige us to retain it, or to comply with it so long as it is retained. Thus the solemn days of Rogation, which we observe in the church of England, were not of an immemorial beginning; for they were first used by the bishop of Vienna, Mamercus, Isicius, and Avitus; but yet they were quickly universal, "non per Gallias tantummodo, sed pene per totum orbem," "not only in France, but in almost all the world," said Alcimus Avitus[a], in his time: and therefore this custom is not to be neglected by any single person, where the church still retains it; for this is sufficient to make a legal presumption of its reasonableness.

12. The other case is, that a custom is presumed reasonable, when the nature of it is such, that it can have no positive and natural unreasonableness, but is capable of some extrinsic and accidental decency and fittingness. The custom that is actually in the practice and manners of a church, is presumed reasonable; and this is of use but in small matters, but yet such which little and great men sometimes make great matters of; I mean, presidences and priorities of place, sittings in the choir, precedences in councils. Now in these cases, custom ought to prevail; for where there is no reason in the thing, there custom is a reason sufficient; and if a law ought to prevail, though there be no reason known for it, then so must custom, because this is esteemed as a law[b]. And it is remarkable, that although in the introducing of a custom, it concerns the governors of churches to take care that it be reasonable; yet when it is introduced, that care is over; and then they are to take care to keep unity and to avoid scandal. "Præstat illic esse, ubi nihil licet quam ubi omnia," said one. It is better to be under a tyranny than under an anarchy: it is better to be too much restrained than to be too loose; and if a custom hath seized upon us, it is better to stand still under that arrest, than to break the gentlest cords of a man, and enter into licentiousness. "Perniciosior temeritas quam quies." It is not good to move any stirs in a quiet church, for certainly peace is better than that, which

[a] Homil. de Rogat. [b] Capit. Consuetudo 1. dist. et l. de quibus, ff. de legibus.

is only a little better than a custom. And we see it by a sad experience, that those who are enemies, and stubborn to the innocent customs of a church, intend nothing but to get the government into their own hands. "Genus hominum, potentibus infidum, sperantibus fallax;" as Tacitus[a] said of the astrologers, we have too much reason to say of them, 'They are a sort of men that deceive their own confidants, and are no sure friends to their superiors:' for to disavow customs is a greater dishonour to the government, and a reproach to the ministry of laws; and to their disciples they preach liberty, that themselves only may rule them absolutely. "Quanto majore libertatis imagine teguntur, tanto eruptura ad infensius servitium;" Tacitus[b] said it of such persons: by the exempting fools from the just rule of their superiors, they make them their own slaves. But to rebel against the customs of a church, is an accusation not only of the rulers, but a condemnation of the whole society of the faithful.

13. A custom in the administration of a sacrament, introduced against the analogy and mystery, the purpose and signification of it, ought not to be complied with. I instanced before in a custom of the church of England, of sprinkling water upon infants in their baptism; and I promised to consider it again. "Baptizabant enim veteres, non manibus suis aquam baptizando aspergentes, sed trina immersione hoc evangelii sequentes, Ascendit ex aqua, ergo descenderat. Ecce immersio, non aspersio;" said Jeremy[c] the patriarch of Constantinople: "Straightway Jesus went up out of the water (saith the gospel); He came up, therefore he went down. Behold an immersion, not an aspersion." And the ancient churches, following this of the gospel, did not, in their baptisms, sprinkle water with their hands, but immerged the catechumen or the infant. And therefore we find in the records of the church, that the persons to be baptized were quite naked, as is to be seen in many places, particularly in the eleventh Mystagogic catechism of St. Cyril of Jerusalem;—and St. Dionysius[d] describes the ritual in the same manner: "The bishop puts his hand upon the catechumen's head, and giving a sign to the priests, commands that

[a] Hist. i. 22. ed. Valpy, tom. 3. pag. 28.
[b] Annal. lib. 1. last words: Ruperti, vol. 1. pag. 82.
[c] Resp. 2. cap. 4.
[d] Lib. de Eccl. Hierarch. cap. de Baptismo.

they write the name of the catechumen and of his godfather; which being written, he says the office or prayers; which when the whole church hath performed together with him, he divests him of his garments by the ministers." And the same thing out of the same author, is observed by Elias Cretensis, in his notes upon the fourth oration of St. Gregory Nazianzen, and is reported also by St. Ambrose in his tenth sermon. "Nudi in seculo nascimur, nudi etiam accedimus ad lavacrum;" "We are born naked, and naked we enter into the waters of baptism."—All which are a perfect conviction, that the custom of the ancient churches was not sprinkling, but immersion, in pursuance of the sense of the word in the commandment, and the example of our blessed Saviour. Now this was of so sacred account in their esteem, that they did not account it lawful to receive him into the clergy, who had been only sprinkled in his baptism; as we learn from the epistle of Cornelius to Fabius of Antioch[e]; Μὴ ἐξὸν ἦν τὸν ἐν κλίνῃ διὰ νόσον περιχυθέντα ὥσπερ καὶ οὗτος εἰς κλῆρόν τινα γενέσθαι, "It is not lawful that he, who was sprinkled in his bed by reason of sickness, should be admitted into holy orders." Nay, it went further than this; they were not sure, that they were rightly christened, yea or no, who were only sprinkled; as appears in the same epistle of Cornelius in Eusebius, εἴγε χρὴ λέγειν τὸν τοιοῦτον εἰληφέναι, which Nicephorus thus renders, "if at least such a sprinkling may be called baptism;" and this was not only spoken in diminution of Novatus, and indignation against his person, for it was a formal and a solemn question made by Magnus[f] to St. Cyprian, "An habendi sint Christiani legitimi, eo quod aqua salutari non loti sunt, sed perfusi;" "Whether they are to be esteemed right Christians, who were only sprinkled with water, and not washed or dipped." He answers, that the baptism was good when it is done "necessitate cogente, et Deo indulgentiam suam largiente;" "in the case of necessity, God pardoning and necessity compelling."—And this is the sense and law of the church of England; not that it be indifferent, but that all infants be dipped, except in the case of sickness, and then sprinkling is permitted. And of this sprinkling, besides what is implied in the former testimonies, there was some little use in the primitive church.

[e] Apud Euseb. lib. 6. cap. 43. [f] Epist. 76.

"Quis enim tibi tam infidæ pœnitentiæ viro asperginem unam cujuslibet aquæ commodabit?" says Tertullian [g], speaking to an impenitent person: "Who will afford thee so much as one single sprinkling of water?" meaning for his baptism. And Surius, in the life of St. Lawrence tells, that as he was going to his martyrdom, one Romanus, a soldier, brought to him a pitcher of water, that he might be baptized of him, as he went; which, in that case, must needs have been done by pouring water upon him. "Fudit aquam super caput ejus:" so did St. Lawrence also to Lucillus, "he poured water upon his head." And Walafridus Strabo [h], from these very examples, concludes, that, in cases of necessity, it is lawful to use sprinkling. He adds also, that it is lawful to do it, when there is a great multitude of persons at once to be baptized: and Aquinas supposes the apostles did so, when the three thousand, and when the five thousand, were at once converted and baptized. But this is but a conjecture, and hath no tradition and no record to warrant it; and therefore, although, in cases of need and charity, the church of England does not want some good examples in the best times to countenance that permission, yet we are to follow her command, because that command is not only according to the meaning and intent of the word βαπτίζετε in the commandment, but agrees with the mystery of the sacrament itself: "for we are buried with him in baptism," saith the Apostle. "In aqua, tanquam in sepulchro, caput immergentibus, vetus homo sepelitur et submergitur; deinde nobis emergentibus; novus resurgit inde:" so St. Chrysostom [i]; "The old man is buried and drowned in the immersion under water, and when the baptized person is lifted up from the water; it represents the resurrection of the new man to newness of life." In this case, therefore, the contrary custom not only being against an ecclesiastical law, but against the analogy and mysterious signification of the sacrament, is not to be complied with, unless in such cases that can be, of themselves, sufficient to justify a liberty in a ritual and ceremony: that is, a case of necessity.

14. And of the same consideration is it, that the baptism be performed with a trine immersion, and not with one only.

[g] De Pœnit. cap. 6. [h] De Rebus Eccl. cap. 26.
[i] In illud 3. Johan. Nisi quis renatus, &c.

In England we have a custom of sprinkling, and that but once. To the sprinkling I have already spoken; but as to the number, though the church of England hath made no law, and therefore the custom of doing it once is the more indifferent and at liberty, yet if the trine immersion be agreeable to the analogy of the mystery, and the other be not, the custom ought not to prevail, and is not to be complied with, if the case be evident or declared. Now in this particular the sense of antiquity is clear. "Nam nec semel, sed ter ad singula nomina in personas singulas tingimur," saith Tertullian[k]: "Dehinc ter mergitamur," "We are thrice put under water, not once; at the mention of every person we are dipped."—The very same words we read in St. Jerome against the Luciferans. But more largely it is explicated by St. Ambrose[l]. "Thou wert asked, 'Dost thou believe in God the Father Almighty?' and thou didst say, 'I do believe:' and thou wert plunged, that is, buried. Thou wert asked again, 'Dost thou believe in our Lord Jesus Christ?' and thou saidst, 'I do believe:' and thou wert dipped or plunged; and therefore thou art buried together with Christ. The third time thou wert asked, 'Dost thou believe in the Holy Spirit?' and thou saidest, 'I do believe:' and the third time thou wert plunged; that thy threefold confession might wash away the many lapses of thy former life."—St. Dionysius[m] says, that the trine immersion signifies the divine essence and beatitude of God in a trinity of persons. St. Athanasius[n] says, it signifies "the death, burial, and resurrection, of our blessed Saviour, together with his being three days in the grave." And this thing was so the practice and custom of the church, that, in the canons of the apostles[o], as they are called, he that does not use trine immersion, is to be deposed from his dignity. Τὴν μίαν ἐπιφημίζειν κατάδυσιν ἀσεβές ἐστι, "It is impious and ungodly to immerge but once in baptism; so Zonaras upon that canon:—and St. Chrysostom derives it from Christ's institution, "Omnibus mysteriis velut signum imponens Dominus, in tribus mersionibus aquæ unum bap-

[k] Adv. Praxeam, cap. 28. De Corona Milit. cap. 15.
[l] Lib. 2. de Sacram. cap. 7.
[m] In Dictis et Interpret. Script. qu. 91.
[n] Vide August. homil. 4. et apud Gratian. de Consecr. dist. 4. cap. 76.
[o] Can. 49.

tisma discipulis suis tradidit;" "Our Lord did, as it were, impose a sign upon every mystery, and delivered one baptism to his disciples in three immersions or dippings:" and therefore says, 'that, though this descended by tradition, yet it hath the authority of a law.' And the same thing we find affirmed by Pope Pelagius, as he is cited by Gratian [p]. And Theodoret [q], speaking of the heretic Eunomius, who first of all, without authority and against reason, did use but single immersion, says, that 'he subverted the rite of holy baptism, which at first was delivered by our Lord and his apostles.'

14. Now in these particulars, it is evident that the ancient churches did otherwise than we do: but that is not sufficient to force us to break the ecclesiastical custom, which is of long abode with us. But when they say, these things are to be done by divine precepts, we are to consider that upon its own account: and though some of the fathers did say so, yet it can never be proved to be so; and it were strange that there should be a divine commandment, of which there is no mention made in the four Gospels, nor in the Acts or Epistles of the apostles. But then that there is in dipping, and in the repetition of it, more correspondency to the analogy and mystery of the sacrament, is evident; the one being a sacrament of the death and burial of Christ, the other a confession of, and an admission to, the faith and profession of God in the most holy Trinity: and therefore I say, it is sufficient warrant that every single person break that custom of sprinkling, which is against the ecclesiastical law; and it is also a sufficient reason to move the church to introduce a contrary custom to the other of single immersion, concerning which as yet there is no law. But because there is, even in sprinkling, something of the analogy of the mystery, as is rightly observed by Aquinas and Dominicus à Soto; and because it is not certain, that the best representation and the most expressive ceremony are required; therefore the church, upon great cause, may lawfully do either: but because it is better to use dipping, and it is more agreeable to the mystery to use it three times, and that so the ancient church understood it, therefore these things are a sufficient warrant to acquit

[p] De Consecrat. dist. 4. [q] Lib. 4. Hæret. fabul.

us from the obligation of the contrary custom; because a custom, against which there is so much probability, and in which there is no necessity and no advantage, is to be presumed unreasonable.

15. But if the custom of single immersion should, by some new-arising necessity, become reasonable, then it not only might be retained, but ought to be complied with. Thus it happened in Spain in the year 600, the Arian bishops finding their advantage in the readily-prepared custom of trine immersion, used it and expounded it to signify the substantial difference of the Son and the Holy Ghost from the Father. Upon this, Leander, the bishop of Seville, gives advice and notice to St. Gregory bishop of Rome; who commends Leander for using a single immersion, which he did to signify the unity of nature in the Divinity, and that he might not comply with the Arians: and this was afterward brought into custom, and then into a law by the fourth council of Toledo[r]. But unless such an accident happen, and that the reason be changed, every church is to use her first customs, those which be right, and agreeable to the sense and purpose of the sacrament. But otherwise, an evil custom is better broken than kept.

RULE XVI.

The Decrees and Canons of the Bishops of Rome oblige the Conscience of none but his own Subjects.

1. This must needs follow from divers of the former discourses: for if bishops, in their spiritual capacity, have no power of making laws of external regiment without the leave of their princes, or the consent of their people, then supposing the pope's great pretence were true, that he is the head or chief of the ecclesiastical order, that from him they receive immediately all the spiritual power they have, yet this will afford him no more than what Christ left to the whole order; of which I have already given accounts.

[r] Can. 5. alias 6.

2. But in this, there will be the less need of inquiry: for since the bishop of Rome by arts, which all the world knows, had raised an intolerable empire, he used it as violently as he got it, and made his little finger heavier than all the loins of princes. And in the council of Trent[s], when in the twenty-fifth session the fathers confirmed and commanded the observation of all canons, general councils, apostolical ordinances made in favour of ecclesiastical persons and ecclesiastical liberty, —they at once, by establishing the pope's empire, destroyed it quite, for they made it impossible to obey; and the consciences of people were set at liberty, because they were commanded, every man, to bear a steeple upon his back. For first there were an infinite number of apostolical ordinances, saith Cardinal Cusanus[t], which were never received even when they were made. Then let it be considered what there is to be done to Gratian's 'decretum,' which is made part of the pope's law: and who knows, in that 'Concordantia Discordantiarum,' that contradictory heap of sayings, which shall, and which shall not, oblige the conscience? But then the Decretals of Gregory IX. and of Boniface VIII., the Clementines and Extravagants, all those laws in that book which is called "Collectio Diversarum Constitutionum et Literarum Romanorum Pontificum,' and in another called 'Epistolæ Decretales Summorum Pontificum,' in three volumes, and in another called 'Eclogæ Bullarum et Motuum Propriorum,' and in another called 'Summa Pontificum,' and in the seventh book of the 'Decretals,' not long since composed,—and in their rules of chancery, their penitentiary taxes, and some other books of such loads as these, that I need not add to this intolerable heap: but that a Christian bishop should impose, and a council of Christian bishops and priests should tie, upon the consciences of men such burdens, which they can never reckon, never tell over, never know, never understand; and that they should do it then, when a Christian emperor had given advice that the decrees and canons should be reduced to a less number, and made to conform to the laws of God,—is so sad a story, so unlike the spirit of Christ and to government apostolical, that it represents the happiness of Christendom, that they are not obliged to such laws,

[s] Cap. 20. [t] Lib. 2. cap. 11.

and the unhappiness that would be upon them, if the pope had the rule and real obligations of the consciences of Christendom.

3. But of these things, the world hath been long full of complaint: as appears in the writings of the Cardinal of Cusa[u], in Marsilius of Padua[x], in Aventinus[y], in Albericus Rosate[z], in Gregory Hambourg[a], in Matthew of Paris[b], Matthew of Westminster[c], Nicolaus de Clemangis[d], Franciscus Duarenus[e], the Cardinal of Cambray[f], and many others, both collected by Guldastus, and the 'Catalogus Testium Veritatis' by Illyricus. Insomuch that if the people had not been ignorant and superstitious, "qui facilius vatibus quam ducibus parent suis," and "more willing to obey their priests than their princes," and if the princes had not been, by such means, overpowered, these decrees and canons would have been as easily rejected as many others have been. For if, by the Papal sanction, they do oblige the conscience, then they all oblige. If they all oblige, how comes it to pass that, as Cusanus says, infinite numbers of them are rejected, when they are newly made? And if so many of them may be rejected, then which of them shall oblige? If they oblige by the authority of the pope, that is alike in them all: if by the condition of the matter, then they bind as they agree with our duty to God and to princes, with the public good, and the edification of the church: and then the authority itself is nothing.

4. And it is no trifling consideration, that the body of the canon law was made by the worst and most ambitious popes. Alexander III. who made Gratian's decree to become law, was a schismatical pope, an antipope, and unduly elected: the rest were, Gregory IX. Boniface VIII. Clement V. and John XXII. persons bloody and ambitious, traitors to their princes, and butchers of Christendom by the sad wars they raised; and therefore their laws were

[u] Ubi supra. [x] In Defens. Pacis, part. 2. cap. 23.
[y] Lib. 7. Annal. Boiorum.
[z] In lib. Bene à Zenone, cap. de quadrien. Præscript.
[a] In Confut. Primat. Papæ 2. consider. Princip. [b] In Henrico III.
[c] In parte 2. A. D. 1247. [d] Lib. de Ruina et Reparat. Eccl.
[e] In Præfat. libri de Sacris Ecclesiæ Ministeriis, impres. 1551.
[f] Alliacens. de Reformat. Eccles. consid. 2. See also the Verger's Dream made in Latin in the time of Charles V. and translated into French.

likely to be the productions of violence and war, not of a just and peaceable authority.

5. But to come nearer to the point of conscience; who made the bishop of Rome to be the ecclesiastical lawgiver to Christendom? For every bishop hath from Christ equal power, and there is no difference but what is introduced by men, that is, by laws positive, by consent, or by violence. "Ad Trinitatis instar, cujus una est atque individua potestas, unum est per diversos antistites sacerdotium;" said Pope Symmachus[g]: "As is the power of the holy Trinity, one and undivided; so is the episcopacy, divided amongst all the bishops, but the power is the same." So St. Cyprian[h]; "Una est ecclesia per totum mundum in multa membra divisa: item episcopatus unus, episcoporum multorum concordi numerositate diffusus;" "As there is but one church in the whole world divided into many members, so there is but one bishoprick parted into an agreeing number of bishops." And again; "Let no man deceive the brotherhood with a lie, let no man corrupt the truth of faith with a perfidious prevarication:"—"Episcopatus unus est, cujus à singulis in solidum pars tenetur;" "There is but one bishoprick, and every one of us hath his share: a part of the flock is given to every pastor." Now if one were the universal bishop over all, then these zealous words of St. Cyprian had not been reconcilable to truth and sense: for then the unity of the church had been by a unity of subordination, not by an identity of office and a partition of charge. To the same purpose is that of Pope Damasus[i], writing to the African bishops to require their aid in a matter of discipline: "Nos excusare non possumus, si ejus ecclesiam, quæ nobis generaliter commissa est, in quantum prævalemus puram à tam illicitis superstitionibus non custodiamus; quia non aliter unus grex et unus pastor sumus, nisi, quemadmodum apostolus docet, eadem dicamus omnes," &c. "The church is committed to us in common, and we have no other way of being one flock and one shepherd, but by speaking the same things," that is, consenting and joining in the common government. This is the same which St. Jerome affirmed; "Omnis episcopus, sive Romæ fuerit, sive Eugubii, sive Con-

[g] Baron. A. D. 499. n. 36. [h] 4. epist. 2, 3. et i. 3. [i] Epist. 5.

stantinopoli, sive Rhegii, sive Alexandriæ, sive Tanais, ejusdem est meriti, ejusdem sacerdotii:" "It is all one, there is no difference in worthiness and power, whether he be bishop of Rome or Eugubium, Constantinople or Rhegium, Tanais or Alexandria." For as it is with the apostles, so with their successors; "Hoc utique erant cæteri apostoli quod erat Petrus, pari consortio prædíti et honoris et potestatis," "What Peter was, that the rest of the apostles were; he was the vicar of Christ on earth,—and so were they, and so are their successors."—"Caput enim ecclesiæ Christus est, Christi autem vicarii sacerdotes sunt, qui vice Christi legatione funguntur in ecclesia," said Pope Hormisda:—and St. Cyprian[k] calls the bishop, "unum ad tempus vice Christi judicem," "the deputy and vicegerent of Christ." St. Peter had the keys given him; so had the apostles, and so have their successors; St. Peter was the pillar of the church, and so were the other apostles; he was a foundation, and so were they; for, "Christ hath built his church upon the foundation of the apostles and prophets." He was Πέτρος, and every one of them was πέτρα, 'a rock,' and Christ was the corner-stone. And what they were in their perpetual office, that the bishops are. "Antistitem puriorem cæteris esse oportet, ipsius enim [Christi] personam habere videtur; est enim vicarius ejus, ut quod cæteris licet, illi non liceat, quia necesse habet quotidie Christi vicem agere," said St. Austin[l]: "A bishop ought to be more holy than others, because he hath the person of Christ, he is his vicar; what is lawful to others is not lawful for him; for he every day is in his place or stead." Add to this, that the power which the bishops have, they have it immediately from Christ, they are successors of the apostles, of all, not of Peter only,—many apostolical churches which were established by others, being succeeded in as well as Rome; that these things are evident in matter of fact, and universally affirmed in antiquity clearly and without dispute.

6. From hence it must needs follow, that, by the law of Christ, one bishop is not superior to another. Concerning which I need no other testimony than that excellent saying

[k] Cyprian de Unit. Eccles. Vide S. Cypr. lib. 1. ep. 3. et lib. 5. ep. 6. S. Ambrose in 1 Cor. xi.

[l] In Quæst. Vet. et Nov. Test. q. ult. et ad Fratres in Eremo, cap. 37.

of St. Cyprian in the council of Carthage; "It remains (saith he) that we all speak what every one of us doth think, judging no man, and refusing to communicate with no man that shall happen to be of a differing judgment:" "neque enim quisquam nostrum se episcopum episcoporum constituit, aut tyrannico terrore ad obsequendi necessitatem collegas suos adegit; quando habeat omnis episcopus, pro licentia libertatis et potestatis suæ, arbitrium proprium, tanquam judicari ab alio non possit, cum nec ipse possit alterum judicare: sed expectemus universi judicium Domini nostri Jesu Christi, qui unus et solus habet potestatem et præponendi nos in ecclesiæ suæ gubernatione, et de actu nostro judicandi;"—"for none of us makes himself a bishop of bishops, or by tyrannical terror compels his colleagues to a necessity of complying: for every bishop hath a liberty and power of his own arbitrement, neither can he be judged by any one, nor himself judge any other; but we all must expect the judgment of our Lord Jesus Christ, who by himself and alone hath power of setting us over the government of his church, and of judging us for what we do."—Now if all bishops be equal in their power, then the pope can, by the laws of Christ, make laws no more than any bishop can; and what the legislative of the bishop is, I have already declared and proved: and therefore for these and infinite other reasons, the consciences of Christians may be at peace as to the canons of the popes, out of his temporal jurisdiction. Concerning which other reasons, who please to require them, may find enough in Spalatensis[m], in the replies of our English prelates in the questions of supremacy and allegiance, in Chamier, Moulin, Gerard, and divers others. I have the less need to insist upon any more particulars, because I write in a church, where this question is well understood, and sufficiently determined to all effects of conscience. I only add the saying of Æneas Sylvius[n], who was himself a pope; "Ante concilium Nicenum, quisque sibi vivebat, et parvus respectus habebatur ad ecclesiam Romanam;" "Before the Nicene council, every man lived to himself" (that is, by his proper measures, the limits of his own church), "and little regard was had to the church of Rome."

[m] Lib. 2. cap. 1. 5, 6. [n] Epist. 288.

Sect. 4. *Of the Matter and Conditions of ecclesiastical Laws required to the Obligation of Conscience.*

RULE XVII.

Ecclesiastical Laws, that are merely such, cannot be universal and perpetual.

1. I DO not mean only that ecclesiastical laws can be abrogated by an authority as great, as that which made them; for all positive laws, both of God and man, can be so, and yet there are some of both, which have been obligatory to all men under such a government, and during such a period, that have been called perpetual and for ever. But that which is here intended, is of greater consequence and concern to the conscience, and it is this,—That ecclesiastical laws merely such, that is, those which do not involve a divine law within their matter, must be so made, as that they do not infringe Christian liberty; and, secondly, that they be so enjoined, that 'the commandments of men be not taught for doctrines.' These are very material considerations, but of great difficulty; and therefore it is fit, they be most seriously considered.

2. They must be imposed so as to leave our liberty unharmed; that is, that the law be not universal, not with an intent to oblige all Christendom, except they will be obliged, that is, do consent. For laws are in public, as actions in particular; actions are done by single men, and laws are made by limited communities. A society cannot be said to do an action, and the whole world cannot be said to make a law; but as the action is done by a determined person, so the law is made by a determined government, as by the church of England, of Rome, of Milan; and the Catholic church never yet did meet since the apostles' days in any assembly to make a law, that shall bind all Christians, whether they consent or no. And because one church hath not, by any word of Christ, authority over another church, and one king is not superior to another king, but all are supreme in their own dominions, of which the church is at least a part, and if they be all Christian, it is that church, that Chris-

tian dominion; it must necessarily follow, that no ecclesiastical law can be made with a power of passing necessary obligation upon all Christians. And therefore the code of the Catholic church was nothing but a collection of some private constitutions, which were consented to by many churches, and to which they bound themselves, but did not long stand so, but changed them more or less according as they pleased. And when the Roman emperors made any canon ecclesiastical into a law, it was a part of the civil law, and by that authority, did oblige as other civil laws did, not all the world, but only the Roman world, the subjects of that dominion.

3. But when any law or canon ecclesiastical is made, it is made by a certain number of ecclesiastics, or by all. If by all, then all consent first or last, and then every bishop may govern his charge by that measure; but that was never yet reduced to practice, and prevails only by consent: but if by a certain number only, then they can but by that measure rule their own subjects; but if they obtrude it upon others, then comes in the precept of the Apostle[o], "Stand fast in the liberty, with which Christ hath made you free, and be not again entangled in the yoke of bondage."

4. For when Christ hath made us free from the law of ceremonies, which God appointed to that nation, and to which all other nations were bound, if they came into that communion; it would be intolerable, that the churches, who rejoiced in their freedom from that yoke, which God had imposed, should submit themselves to a yoke of ordinances, which men should make: for though before they could not, yet now they may, exercise communion, and use the same religion without communicating in rites and ordinances.

5. This does no way concern the subjects of any government (what liberty they are to retain and use, I shall discourse in the following numbers); but it concerns distinct churches under distinct governments,—and it means, as appears plainly by the context and the whole analogy of the thing, that the Christian churches must suffer no man to put a law upon them, who is not their governor. If he have undertaken a pious discipline, let him propound it, and, for

[o] Galat. v. 1.

God's glory and the zeal of souls, endeavour to persuade it; for all that is not against Christian liberty, until any man or any church shall impose it, and command it, whether the churches please or no, whether they judge it expedient or no, whether it be for their edification, or not for their edification: that is not to be suffered; it is against our evangelical liberty, and the apostolical injunction.

6. And this was so well understood by the primitive churches, that, though the bishops did appoint temporary and occasional fasts in their churches upon emergent and great accidents, as Tertullian affirms, yet they would suffer no bishop to impose any law of fasting upon others, but all churches would keep their own liberty, as I have already proved in this chapter[p]: and when Montanus did νηστείας νομοθετεῖν, 'make a law of fasting,' not for his own church, but intended that all Christians should keep the fasts appointed, they made an outcry against him and would not endure it; and yet he did it only for discipline, not for doctrine,—for piety, not as of necessity,—as appears in Tertullian's book of fasting, in the first and second chapters[q]: and they also did keep fasting-days set and solemn, every bishop in his own church, at what times they would, but almost all upon Good Friday; but this was by consent and with liberty, and that they ought to defend, and so they did.

But ecclesiastical Laws must not be perpetual.

7. That is, when they are made, they are relative to time and place, to persons and occasions, subject to all changes, fitted for use and the advantage of churches, ministering to edification, and complying with charity. Now whatsoever is made with these conditions, cannot be perpetual: and whatsoever ecclesiastical law hath not these conditions, the churches ought not to receive, because they are impediments, not advantages, to the service of God. If they be thus qualified, no good man will refuse them: if they be not, they are the laws of tyrants, not of spiritual fathers: for this whole affair is fully stated in those words of our blessed Saviour; reproving of the Pharisees and their ecclesiastical laws, he says, "they, by their traditions, did evacuate the command-

[p] Rule 13. n. 9. [q] Vide etiam cap. 13. 15.

ment of God, and they taught for doctrines the commandments of men." The full sense of which when we understand, we have the full measure of ecclesiastical laws, not only as they relate to the churches and communities of Christians under distinct governments, but to every single Christian under his own governor and superior. These, I say, are the negative measures: that is, ecclesiastical laws are not good and are not binding, if they be imposed against the interest of a divine commandment, or if they be taught as doctrines. Of the first there is no doubt, and in it there is no difficulty: but in the latter, there is a very great one.

8. For when our superiors impose a law of discipline, they say it is good, it is pleasing to God, it is a good instrument and ministry to some virtue, or at least it is an act of obedience, and that it is so, is true doctrine: what hurt can there be in all this? The commandments of men are bound upon us by the commandment of God, and therefore when they are once imposed, they cease to be indifferent, and therefore may then become διδαχαὶ, 'doctrines' and points of religion; what then is that which our blessed Saviour reproves? and what is our negative measure of ecclesiastical laws?

9. To this the answer is best given by a narrative of what the Pharisees did, and was reproved: for all was not repugnant to the law of God, neither is all that amiss which men teach to be done. For our blessed Saviour commanded us 'to hear them that sat in Moses' chair, and to do whatsoever they commanded:' not absolutely whatsoever, but whatsoever of a certain sort; that is, 1. Whatsoever they taught by a probable interpretation of what was doubtful; 2. Or by faithful counsel concerning things belonging to piety and charity; 3. Or by a determining to circumstances of time and place those things, which were left to their choice and conduct.

10. Whatsoever was besides these, that is, 1. Whatsoever had its foundation in the opinions of men, and not in something certainly derived from God, if brought into religion and imposed on men's consciences as a part of the service of God, this is 'the teaching for doctrines the commandments of men.' But besides this, 2. If what is deduced only by probable interpretation, be obtruded as a matter of faith; or, 3. If what

is piously counselled, be turned into a perpetual and absolute law; or, 4. If that which was left to the choice and conduct of the governors, be handled not as matter of liberty, but of necessity;—in all these cases, 'the commandments of men are taught for doctrines.'

11. The reason of these things is plain. For the first; If it have no foundation in the law of God, but in human opinions, and yet be taught for doctrine, it is literally the thing that is here reproved. For the second; Whatsoever is but probably collected, is not the word of God, for that is always certain: it is true it is but probable in itself, but in itself is true or false; but to him it is but probable,—and therefore, to say this is the word or the commandment of God, is more than the man can say; it is to say that it is true in itself, that is, it is a doctrine of God,—when indeed it is but the word of man for aught we know. For the third; When God hath left it at liberty, if man turns it into a commandment, and teaches it for the law of God, he does more than God would do, and more than is true; for God never made it into a law, and man cannot make it to become God's law: for the ecclesiastic order, being but God's minister and the publisher of God's will, must propose things as they received them from God; that which is law, as necessary,—that which is counsel, as highly rewardable. For the fourth; If it be left in the power of the governors, then it is 'hoc ipso' evident that it is necessary; and therefore though it may minister to order and discipline, yet it must do no more; it may be called 'obedience,' so long as it is justly bound upon us with the cords of a man; but it must not, in any other sense nor at any time, be called 'religion.' How these two last sorts may be made into laws, I shall account when I speak of the positive measures of ecclesiastical laws; but abstracting from that superinduced obligation, to teach these things as necessary which God hath not made so, is to do as the Pharisees did, whom our blessed Saviour so reproves.

12. An example of the first is, the Pharisees 'teaching the washing of cups and dishes: because they said, that, if a gentile or any unclean person had touched their vessel that touched their meat, the impurity would go into their body that ate it, and from thence into their soul; and therefore they taught the doctrine or tradition of cleansing vessels and washing

their hands, εὑρίσκοντες κενὸν τὸ φάρμακον πρὸς τὸ κενὸν, as he said in the Greek comedy; "finding out a vain remedy to cure a fantastical disease." Thus, in the church of Rome, they exorcise salt and water to cast out devils; they give verses out of the Psalms or Gospels to charm witches; they ring the bells to appease tempests, and very many more such ridiculous devices. 2. Of the second we have examples enough, in the council of Trent, who drew into a body of articles, and declared those things,—some of which are but probable at most, and some of them apparently false,—to be articles of faith. And under this those also must needs be involved, who persecute men for opinions and doubtful disputations. 3. Of the third, they are very evil examples, who to some whole orders of men lay an injunction of keeping evangelical counsels: such who forbid the whole order of the superior clergy to marry,—and command them that are married, to forsake their wives or their office and livelihood. 4. But they are guilty of the fourth kind of prevaricating of the words of our blessed Saviour, who persecute the breakers of an ecclesiastical law with a severity greater than the violators of a divine commandment. For if there be any liberty, of any sort, left, after an indifferent action is made into a law of man, it is all destroyed by them, who give less liberty to the transgression of that law than to the breach of God's law, under which there is left no liberty, but the liberty of a cheerful and voluntary obedience. For they that do such things, must needs at least say that such human injunctions are as necessary as the divine commandments; for else why are they more severely punished?

13. The sum is this; Not only those who expressly teach, that what they have invented, is a commandment of God,—but all they that say any thing is a law of God which is not, though it be good, though it be probable,—and all they which use arts and secret devices and little arguments and enforcements, and press indifferent things up to the height and necessity of religion and a divine commandment,—are guilty of this pharisaism, obnoxious to our Saviour's reproof, and, if it be in the matter of ecclesiastical laws, have exceeded their measures and their power, and bind themselves, but not the consciences of their subjects. A commandment is not only then broken, when we bid open defiance to it, but then also when we

do actions tending to the violation of it; that is, there are degrees of violation of a divine law: and an ecclesiastical law that does, in any degree, break this law of our blessed Saviour, is therefore void, and is become intolerable.

14. Of these things I shall yet give two great examples, one of the Pharisees, and another of some that follow their example in this affair. God gave a commandment to the Jews of keeping holy the sabbath-day, their new moons, and some other solemnities. Now there were many particulars in the observation, which were not determined in the law; but, 1. What was doubtful, was to be expounded by their doctors. 2. Some things were left to the liberty of good people, and the measure of them was best determined by their doctors and men learned in the law. 3. There were some canons ecclesiastical which were outer guards and hedges to the law itself, that men might, by those distances, be kept further off from sin; and in these things their rulers had also power. Now though all this they could do, and might pretend an authority from God to interpret the law and to guide the consciences, yet when they fell into ridiculous commentaries and useless glosses, neither the law itself, about which their interpretations were employed, nor their authority which they had from God, could secure them from tyranny, and corruption, and doing violence to conscience, and imposing unequal burdens. Thus we find that their rabbins taught, 'that upon a solemn feast-day, it was not lawful to catch fish in their ponds, but they might hunt the hens and catch the geese in their yard. They might not blow the fire with a pair of bellows, because that was too like the labour of smiths; but they might blow it through a hollow cane; they might make a fire and set on their pot, but they must not lay on their wood like the structure of a house, that is, too artificially; and you must roast or boil not more than was necessary: and if you made a fire, you might wash your feet with warm water, but not your whole body. You must not touch an egg, that was laid that day; nay, if you were doubtful whether it were laid that day or no, yet you might not eat it,—and, if that were mingled with a thousand, you might touch none of them: but if you killed a hen, you might eat the perfect eggs, that you found in her." These and many more such little doctrines they taught to be observed, as explications

and manners of the observation of the divine commandment: but these I have here transcribed from the Jews' books, that we may perceive the sense of our blessed Saviour's reproof by the instances of their prevarication. He was pleased to speak to that of washing cups and platters: but it is also said there[r], καὶ ἄλλα πολλά ἐστιν, "there are many other things," such as that was which they have received and teach, some of which I have recited. Now we do not find that the Pharisees taught these as divine commandments, but they used them as if they were; they did them ὁσίας χάριν, they thought themselves the more holy for doing them, they accounted them profane that did not, they placed much of their religion and pharisaism or separation in them, esteeming them a part of the divine worship: this was their case, and Christ gave their sentence.

15. The other instance which I promised, is the law of the Roman church in keeping of Lent; which, it is certain, was no law of Christ, not so much as the interpretation of a divine law. Some of them pretend, it was enjoined by the apostles; others of them say not, and these say true; so that it is a commandment of men: but yet this they teach for doctrine in the culpable and criminal sense, that is,

16. They value it more than some commandments of God. I need no other proof but the words of Erasmus[s]: "Veluti parricida, pene dixerim, rapitur ad supplicium, qui pro piscium carnibus gustarit carnes suillas;" "He, that, instead of fish, shall but taste a piece of pork, is dragged to punishment, almost as if he were a parricide:" "Gustavit aliquis carnes, clamant omnes, O cœlum! O terra! O maria Neptuni! Nutat ecclesiæ status," &c. "If they see a man eat flesh, they are amazed, they think the church is in danger; they put men to death, to the sharpest death of burning alive, for eating flesh; they shut up the butchers' shambles, but leave open the public stews."

17. They account it to be a part of the service of God, not only as it is an act of obedience to superiors, but in itself and without any relative consideration. Bellarmine[t] says, "they are not Christians, that eat flesh in Lent:" which words are extremely false; or else every one, that

[r] Mark, vii. 4. [s] Epist. ad Epist. Basil.
[t] Lib. 2. de Bonis Operib. cap. 9. sect. Tertio addit.

disobeys an ecclesiastical law, hath forfeited his Christendom; or else he places the sum and life of religion in the keeping of Lent, and makes it a vital part, expressly prevaricating one of the most glorious propositions of Christianity, placing the 'kingdom of God in meat and drink, not in righteousness, and peace and joy in the Holy Ghost[u];' and doing that which the Apostle[x] hath forbidden, when he said to the Colossians, "Let no man judge you in meat and drink." If it were only a question of obedience to the law, it were to be considered upon a distinct account, and were a sin or duty respectively, according to the several dispositions of the person and the law: but no man says that he is no Christian, who, at any time, breaks an ecclesiastical law: and therefore in this more is pretended, and it is to be reckoned amongst the διδασκαλίας, ἐντάλματα ἀνθρώπων, "the commandments of men, that are taught for doctrines."

18. They account the exterior action, the body of the injunction, the element of it, to be a service of God; and for that part of it esteem themselves the more holy and the better Christians, as appears in their contentions aboutit, using arguments to prove the very fast to be a sacrifice, a pure oblation[y]. Now it is true that fasting is a good ministry to divers holy purposes, but it is no more; it is that which can be supplied by other ministries as apt, and therefore that in kind is not necessary, nor required; it is that, whose work can be done without any ministry at all, in some persons, and some cases, even by love and by obedience, by hope and fear, which are, of themselves, direct graces, virtues and parts of the service of God. And therefore the fathers of the church press, in their sermons and exhortations to fasting, that they would take care to acquire the end of fasting,—to be free from vice, to mortify the affections and lusts; according to that saying of Isidore[z]; "Fasting with good works are acceptable to God, but he that abstains from meat, and does evil, imitates the devils, 'quibus esca non est,' 'they never eat, but ever do wickedly,' and perversely. But he fasts well, that fasts from maliciousness and secular ambitions."—"Take heed therefore (says St. Jerome[a] to

[u] Rom. xiv. 17. [x] Coloss. ii. 16.
[y] Bellar. ubi supra, cap. 11. sect. item.
[z] Lib. 2. Senten. cap. 44. [a] Epist. 14.

Celantia), that when you begin to fast and use abstinence, you do not think yourself holy. For this strength 'adjumentum est, non perfectio sanctitatis,' 'it is not the perfection of sanctity, but a help only.'"—Νηστείας ὄφελος οὐδὲν, ἂν μὴ καὶ τὰ λοιπὰ ἔπηται πάντα, "And there is no profit at all of fasting, unless all things do follow," saith St. Chrysostom [b]; that is, ἀποχὴ ἁμαρτημάτων, 'an abstinence from sin entirely:'—and again, "What gain is it, if, ἔρημοι κατορθωμάτων, 'being void and empty of good works,' we have kept the fast? If therefore another says, 'I have fasted all the Lent,' say thou, 'I had an enemy, but I am reconciled; I had an evil custom of detracting from my neighbour's fame, but I have left it off; I had an ungodly custom of swearing, but it is now amended.'" The sum is this, which I represent in the words of Prosper [c]; "Jejunia, abstinentiæ, ac cætera hujusmodi, non pro justitia, sed cum justitia, Deo sunt exhibenda;" "Abstinence and fastings are to be given to God not *for* good works, but *with* them."—That is, they are of use in order to certain purposes, which when they do effect, they are good; when they do not, they are useless troubles; and if they then be urged beyond their ministry, and instrumentally, and for themselves, then we return to the beggarly elements and rudiments of the synagogue: and if we suffer ourselves to be brought under the power of these things, by laws, and affrightments, and spiritual terrors, then we have lost our Christian liberty, which was bought by the best blood of the world.

19. But not only the exterior and instrumental act is absolutely urged and taught as necessary, but a circumstance, a manner, and form, of that exterior instrument is enjoined. It is enjoined not that we fast totally; but that we fast so: you may dine, if you will eat at the merchant's hours, after twelve or one of the clock, but you may not eat flesh; you may eat sweetmeats, the most delicious fish, the sturgeon and the scarus, the lamprey and the oyster, the eel and the salmon, and all the delicacies of nature,—so you do not touch the fillets of a veal, nor eat an egg or milk, curds or cheese, or any thing that comes from a beast or bird. Now what can be the meaning of this, when it comes to be expounded

[b] Homil. 3. ad Pop. Antioch. et hom. 4. et 16.
[c] Lib. 3. de Vita Contemplat. cap. 10.

by wise and sober men, that can judge of the causes and differences of things? For if abstinence and fasting be the thing that is required, this is nothing of it: if we may dine, if we may fill our bellies with wine and delicacies, if we may eat, and, as Adam might, of all the garden of Eden, it is no great matter as to temperance and abstinence, as to mortification and austerities, if we abstain from one; it may be something as to our health, and so certainly it is to very many bodies. It may be an instrument of vexation, but it cannot edify. Is any man cured of his lust, by eating nothing but fish and broths for forty days? He may indeed be made sick by it, and so very many are; but the interest of no virtue is served by it, but by the other permissions it may be more destroyed; and by fishes, and broths, and artificial meats, provisions may be too abundantly made "for the flesh, to fulfil the lusts thereof." What therefore is in this manner of the law, but something of the beggarly religion of meats and drinks? In the days of Prosper[d] they abstained from the flesh of beasts, but not of birds; and his sentence of that kind of fasting is this; "But they that, abstaining from the flesh of fourfooted beasts, enjoy the flesh of pheasants and other precious birds or fishes, seem to me not to cut off the delights of their bodies, but to change them,—and to cast away the common and cheap delicacies of flesh, that they may fill their pleasures with more delicious and more precious flesh; not for abstinence, but because some flesh is unclean, or rather, as I suppose, for the tenderness of their wanton stomachs: since the nature of any flesh is not to be condemned, if it be intended for man's use, and appointed by God; but the lusts of the flesh are to be avoided, which the devil hath superinduced, and offers to our senses. But they that would seem to themselves more abstinent, and by it acquire fame and noises, do so abstain from flesh, that they fill their vast appetite with rare fruits and curious broths: but spiritual abstinence persuades not to refrain the use of certain meats, but the restraint of the lust and the desire; and they are rather to be esteemed abstinent, who forbid not to themselves the use of some meats, but the delights of the body."—And indeed let it be considered; if a man pretending to mortify his body, shall abstain from wine, and will nevertheless drink

[d] Lib. 2. de Vit. Contempl. cap. 23.

sherbets and delicious beverages, strong ale and spirits, I suppose his body will not, by that discipline, be dead to sin: and so it is in the abstinence from flesh,—unless he also abstain from all nourishment but what is necessary and made pleasant by want. For thus the holy primitives, when they had gotten the custom of the Lenten fast, for two days, or six days, or ten days, or fifteen days, according as the humour increased, they did generally abstain from flesh; but so they did also from fish, and wine, and all delicacies, and ate a dry diet, bread and water, herbs and common fruits, turnips and berries, flies and nuts: and yet this they did without making it a religion not to eat a bit of flesh; but upon occasion would eat a meal of flesh, but not very delicious; and when their fasts were of many days, they were not continual but intermitted. This latter I have already proved; but that even in Lent the primitive Christians did not abhor flesh, appears beyond dispute in the case of Spiridion, bishop of Cyprus; who when a traveller came to him in the time of Lent, very weary and faint, and there were no cold provisions in the house ready dressed, it being a time of fasting, bids his daughter to boil some pork, which was in the house powdered for the use of the family: she did so, and her father the bishop ate of it, and bade his guest do so too; who refused, saying that 'he was a Christian.' The bishop replied, "Therefore the rather you ought not to refuse[e]; because the word of God hath said, 'To the pure all things are clean:'"—so Sozomen[f] tells the story. By which it is apparent, that then it was not the custom for Christians to eat flesh in Lent, for they ate nothing that was pleasant, but they abstained because it was pleasant, not because it was flesh; for of this they made no religion, as appears in the fact and exhortation and argument of Spiridion. And of the same consideration was that law of Justinian, in whose time, which was in the middle of the sixth age, the custom of abstaining from flesh in Lent, did prevail much; but because it happened in Constantinople to be great scarcity of other provisions, the emperor commanded the shambles to be open and flesh to be publicly sold. But Nicephorus[f] tells that the people would not buy any, for they began to think it to be religion "not to touch, not to taste, not to handle." But

[e] Lib. 1. hist. 11. [f] Lib. 17. cap. 32. Hist.

the emperor and the wise men knew no religion against it. And that which Marcion [s] said to Avitus in the like case, is very considerable; "We know that charity is better than fasting; for charity is a work of the divine law, νηστεία δὲ τῆς ἡμῶν ἐξουσίας, 'but fasting is a thing arbitrary and of our own choice.'" Since therefore to eat flesh, or not to eat it, may become good or bad as it is used, and does not serve the end of fasting, and such fasting does not serve the end of the spirit,—not only to make fasting to be religion, to which it does but minister, but to call that fasting which they who first began Lent, would call feasting and luxury, and to make that to be essential to that fast, and that fast necessary to salvation in the ordinary way of necessity, is not only 'to teach for doctrine the commandments of men,' but to make the impotent, fantastic, and unreasonable devices of men to become commandments.

20. That this may be an exact parallel with the practice of the Pharisees in that folly, which our blessed Saviour reproved; the commandment does so little regard the true end of fasting, and that fasting so little advances the use and interest of any virtue, that they spend themselves even in the circumstances of some circumstances, and little devices of superstition; taking care not to eat a turnip, if boiled in a vessel in which flesh was put; not to cut their bread with a knife, that had carved flesh; not to taste it, but to wash their mouth after a little whey or broth, if by chance it had been touched: which things because they can serve no end of religion, the law that requires such things, must needs be foolish or superstitious; it must either play with men's consciences as with a tennis-ball; or intimate some pollution and unholiness at that time to be in the flesh; or else at least must pretend to greater strictness than God does in the observation of his positive laws; and it certainly introduces the greatest tyranny in the world, destroys peace, and is the most unwarrantable of all the follies, which can be incident to the wiser part of mankind,—I mean, to them that govern others.

21. I will not instance in the ridiculous and superstitious questions, which they make about the keeping of the ecclesiastical law; as whether it be a dinner or a supper, if we eat

[s] Theodoret. Hist. Relig. in Marciano.

after even-song said at high noon; whether a morning's draught does break the ecclesiastical fast; whether a man may eat a bit of bread with his drink, and yet be a good son of the church; whether a cook that dresses meat for sick persons, may lawfully lick his fingers; whether he that eats one bit of flesh, sins anew, if he eats another; and whether or no he may not, at the same rate, eat flesh all the Lent after; whether the wet nurse may eat flesh, because her baby may have good milk; whether it be lawful to eat birds and fowls, because they were produced out of the water: which doughty reason did encourage some to do it, of whom Socrates[h] speaks, and is mentioned by Peter Gomestor, the master of the Scholastical History. Which questions, if they that make them, be in their wits, and think other men are so too,—they must needs believe that the keeping of Lent is so sacred, so principal a point of religion, so great a service of God in the very letter and body, in the crust and outside of it, that the observation of it must consist in a mathematical point: it is like the decalogue, the very letters of which are numbered; and if a hair be missing, religion suffers diminution: and which of all these it be, yet in every one of them they do what the Pharisees did, and what Christ reproved in them, and thereforeforbids in all men, "they teach for doctrines the commandments of men."

22. To return to the particular of the rule; they make an ecclesiastical law, which is of a relative use and nature, to be periodical and perpetual;—which is unreasonable, and may be sometimes unjust, and very often uncharitable, and therefore not the fit matter of an ecclesiastical law. For this is certainly the greatet deletory of the liberty of Christian churches, and a snare to consciences, and is, of itself, apt to introduce superstition and the opinion of direct religion into the discipline.

23. But this is to be understood of such laws which are intended for discipline, and are, 1. A burden; and, 2. Of a nature relative to the future; and, 3. Of an alterable use. For if a law were made, that every man, at a certain time of the year, should do a certain discipline to mortify his lust, it were a foolish law; for that the man at that time, it may be,

[h] Lib. 5. Hist. cap. 21.

needs it not; or he hath another remedy; or he is sufficiently contrite for his sins, and does his penance by internal sorrow; or, it may be, he cannot at that time mourn; or, it may be, the cause is altered, or a greater cause intervenes; and that ought to be served, and therefore not this; for if you serve both, you tire obedience, and make religion to be a burden: but which is most of all, a law of burden, if it be perpetual, makes the willing to be slaves, and tempts the unwilling to be rebels; and because it is intended to minister to things contingent and infinitely alterable, if the law be not so too, it must pass into an opinion of being a divine worship and religion, or else into more than an opinion and imagination of tyranny. Add to this, that laws of burden are always against charity, if they be not done in great necessity, or not effective of a good greater than the evil; and therefore to impose such laws with a perpetual obligation upon churches, when it cannot be of perpetual use, and at all times good, or just, at such times necessary,—is against the equity and charity of that power which Christ intrusted in the hands of them, whom he made stewards of his household, feeders of his flock, and fathers of his family.

24. But if the laws be relative to what is past, and no burden, but matter of ease or benefit, or comes from a perpetual cause, or that which is unalterable, then the law may be such, which will be perpetually consented to, and kept for ever. Thus the Catholic church keeps the Lord's day, not by an everlasting ordinance, but by a perpetual consent, and for a never-failing reason; and that which makes it, necessary now to keep that day, and will do so for ever, is, because the reason of it is always the same; and in this case, that which was fit at first, will be so at last, and all the way: and things are in that constitution and conjunction, that no man can despise that day, without being careless to return thanks for the resurrection of Christ, and to separate a just portion of his time to the more solemn services of God. But for all this, this is not a perpetual law imposed upon all churches; for God did not impose it, and no man hath power to do it; for no man's power can last longer than his life: and therefore no bishop can oblige his successors by any canon, without the civil power supervenes and fixes that law by continuation.

And therefore although God did enjoin the Jews an annual fast for ever, and although the rulers of the Jews did add some more, and they were observed for ever: yet this will not infer that therefore now this may be done in a law of the church. For God who is a lawgiver, does abide for ever; and therefore his laws are to remain as long as he please: and the rulers of the Jews had both the powers, civil and ecclesiastical, conjunct, and they by a current legislation still caused their fasts to be observed; yet the succeeding ages had been at liberty, and the sanhedrim might have changed those solemn days, but that they were established by prophets and by those, whom they believed to speak the will of God: all which make their case special, and not to be drawn into example and warranty in the sanction of ecclesiastical laws in the Christian church. To which let this be added, that the Jews might keep and observe a religion of days and meats; and it not being against the analogy of their manner of serving God, their rulers had an equal power to make laws in the difference of days and meats, as in any other matter whatsoever. But the laws of the church must minister to piety and holiness, and to nothing else; and they must be exacted with prudence and charity, and in no other manner; and must be obeyed in love and liberty, and by no other measures: but the day or the meat must ever be the less principal in constitution; they may be the circumstances, but no part of the religion, and therefore cannot be perpetual; but just as a Venice glass may, that is, if there be nothing to break it, abide for many ages, but every thing that strikes it can break the glass,—and every requisite of reason or charity can put a period, or take off the necessity of that portion, in the law, which, because it must be less principally regarded, must accordingly be imposed and exacted, but cannot be universal and perpetual.

25. The result of these considerations is this; (1.) Ecclesiastical laws may be made by particular churches, to prevail in their own governments, and to pass on their own subjects, —but may not, by one church, be imposed upon another, much less from one to pass upon all.

26. (2.) Ecclesiastical laws may be made and continued by any authority so long as that power lasts, and so long as

the reason of the law does last; but it can be no longer a law than it hath influence from the remaining power, who is to establish it according to the remaining usefulness.

27. (3.) All ecclesiastical laws, in the matter of meats and drinks and days, must be wholly relative to religion, and the effect of graces and proper duties, and must not at all be imposed with any regard to themselves, but to the ends of their ministry, and must live and die according to the nature of relative beings; but cannot be perpetual, but where neither the cause nor the subject alters.

28. (4.) All ecclesiastical laws must be imposed with liberty: not with liberty of the subjects to obey or not to obey, but with the liberty of the whole church, to change them or to continue them, to exact or relax them, to bind or to loose, as may best stand with prudence and charity, with the interest of virtue or the good of the subject.

29. (5.) Ecclesiastical laws must serve religion, but must never pretend to be religion or a direct service of God. It is true that all religious laws of our just superiors, rightly imposed in order to any virtue, are adopted into the society of that virtue; as a law of fasting does also enjoin a duty of temperance; a law of Christian festivity, in order to our joy in God, and praising his name, and paying him thanks, promotes all these graces; and therefore he that keeps that day to these purposes, besides his obedience, does an act of all those graces. Yet it is to be observed, that the observation of these laws can never formally be reckoned to be actions of those graces; they are but ministries and instruments, and they not necessary but useful only: and therefore he that does not observe that day, though, it may be, he sins against obedience, yet he is not to be judged as if he were intemperate, or unthankful, or unmindful of God's benefits; because though these appointments are made for the services of these graces, yet these are not the adequate ministries of them; they may be done by other ways at other times, and they may, at that time, be omitted without any neglect of such graces. If there be a just cause to omit the observation, then the omission is neither disobedience, nor intemperance, nor unthankfulness: but if there be no just cause, it is disobedience; and may be any of the other as it happens, but is not certainly so. But though in these respects to obey an

ecclesiastical law may be a doing an act of virtue together with the obedience, and so a serving of God; yet because it is only in the regard of the concomitant act of virtue, which is served by the law,—if that law do not serve that virtue, but by any cause be destitute of its purpose, that external action which the law enjoins, is so far from being a service of God, that if it be urged imperiously, or acted for itself, and delighted in upon the natural account, it enters into religion, with which it hath nothing to do, and so passes into superstition.

30. (6.) Ecclesiastical laws, if by any means they be taught for doctrines and commandments of God, become unlawful in the imposition, though the actions of themselves be lawful; that is, they are unlawful laws, and do not bind the conscience; for they are such things, in which no man can have authority; for they are a direct destruction to Christian liberty, which no man ought to take from us. If they once pretend to a necessity besides the equal necessity of obedience, they do not oblige the subjects of any government; but if they pretend to a necessity of obedience, they do not oblige any churches besides that, whose governors have made the law.

RULE XVIII.

Ecclesiastical Laws of Ceremonies and Circumstances of external Observances, do not bind the Conscience beyond the Cases of Contempt and Scandal.

1. That is, they bind only in public, and not in private, they bind not for any thing that is in themselves, but for something that is better than themselves; they bind, not for our own sakes, but for their sakes that look on: and therefore when nobody looks on, when they have no end to serve, when they do no good, when they signify nothing, they cannot bind at all; for whatsoever binds only for this reason, does not bind at all when this reason is not. The church of England commands, that, when the priest says the responsory after the Creed at morning or evening prayer, he shall stand up: the purpose of it is, that the people who are concerned to answer,

may the better hear: but if the prayers be said in private, none being by, or, it may be, two or three that kneel near him, it is ridiculous to suppose that the priest sins, if he kneels on to the end of those ejaculations. In some cases, he that officiates, is bound to turn his face to the west, or to the body of the church; but if there be nobody in the church, but the clerk at his side, why he should do so, there is no reason to be given, and therefore it cannot be supposed to be bound upon him by the law of the church.

2. For it is highly considerable, that in these laws of ceremonies, it is otherwise than in laws, which concern the matter and instances of divine commandments. Because the laws of commonwealths can change actions, of themselves indifferent, into the order of virtue and vice, if they be of the same matter and naturally capable; as when incest is defined to be a forbidden conjunction of persons too near in blood, the law, by forbidding the marriage of uncle and niece for that reason, can make that to be incest; and killing can, by the law, be made murder, when it is forbidden,—or not to be murder, when it is justly commanded. Thus if there be a law made, that corn or gold lace shall be sold at a certain price, the law which is the measure of justice in contracts, makes that price to be the instance of justice, and what exceeds it, to be unjust, if it be a just law. Because these actions lying next to the instances of the divine commandment, and placed there as outer guards to God's law, and being naturally the same actions, when the prohibition comes from a just authority, then it is made to be a sin by the law, and that sin by the nature and participation of the same reason. For he that kills his adulterous daughter where it is permitted, does do the natural act of killing as much as he that kills his father; but where there is no law against it, but by law she is sentenced to death, and that without solemnities, there is no *ἀνομία*, and therefore no *ἁμαρτία*,—it is not a sin, unless it be the transgression of a law. So that the natural capacity and the supervening law together make up the action to be such a sin. But now this thing can never be in ecclesiastical laws of ceremonies and rules of order: for they are not in their matter and in their own nature like to religion or next to it; and nothing can be religion but that service, which God hath chosen of himself, and that which is

naturally and internally so, as, glorification of God, loving him, obeying him, praying to him, believing him, and such other inward actions which are taught to us by our natural reason and our prime notices of God. But external actions and ministries are then capable of being made religion, when God appoints them, and not else; because God will be worshipped externally as he is pleased to appoint, according to that saying of Origen [i], "Nemo qui oculis animæ cernit, alio modo Deum colit, quam sicut ipse docuit;" "That man is blind in his reason, that will worship God otherwise than he himself hath taught."

3. This only; The church can adopt actions into religion, which God hath made ready, and which he hath prepared and fitted for religion; such as are free-will-offerings and counsels evangelical. For when any man does choose to do any act, which God hath recommended and not enjoined, this is religion; but this is only in such things, which are real graces appointed by the divine law, and the instance only is left undetermined. How far the church can command any of these things, I shall afterward inquire; but for the present, these things can pass into religion, because God hath so prepared them.

4. But secondly; external observances can become religion, if they be the outward act of an inward grace; as, giving money to the poor, worshipping God with the body; that is, when they naturally express what is conceived and acted within, not when they come from without: a commandment of man may make these actions to be obedience, but they are made religion by the grace within, or not at all. Thus fasting can be an act of religion, when it is naturally consequent to penitential sorrow, and the hatred of sin: but when it is enjoined by men, then it is but an instrument, and may be separate from all religion, and may be no act of repentance, and can be made to be religion by no man but by the nature of the thing.

5. But thirdly; ceremonies and rituals and gestures and manners of doing outward actions, cannot be made to be any thing but obedience: they are neither fitted by God, as counsels evangelical are,—nor yet by nature, as the outward actions of virtue are, to become religion; nay, they are separated

[i] Contra Celsum, lib. 7.

from being religion by the word of God, by the coming of Christ, by his death upon the cross; and days, and meats and drinks, and carnal purities, and external observances, are now, both by God and by nature, removed far from being any thing of the Christian, that is, of the spiritual religion.

6. The consequent of these things is this,—When a law is made, it binds either by the natural goodness of the thing, or by the order and usefulness of its ministry to something else, or only by the authority. Ceremonies cannot be of the first sort, but of the second they may, and then they oblige only so long, as they can minister to the end of their designation, but no longer. For if that be the only reason of their obliging, then they oblige not, when that reason is away. Now because they are made only for order and decency, both which are relative terms, and suppose an action done in public,—there is no need, no use of them in private. But, because, even after the reason ceases, the authority hath reasons of its own to be regarded, and things that are not binding by their absolute or relative nature, may yet bind by the authority and for the reverence of that, till there be opportunity to annul the law,—therefore when the reason of the ceremony does cease, or is useless and operates not at all, we must yet regard the authority; that is, do it honour, as Samuel did to Saul. If the thing itself be of an intrinsic goodness, though made necessary only by the positive command, then it is to be done for itself, and in private as well as public: but if it be only a relative ministry, then it hath no reason beyond that relation; and if that relation be public, it binds only in public: but if it be only matter of obedience, and have no reason else either absolute or relative, then the law does not bind the conscience, but even then we are bound so to comport ourselves, that the authority may not be despised nor offended; that is, it is not to be slighted or reproached, nor publicly disregarded; though for the obedience itself in this case there is no absolute obligation, but the not obeying is to be conducted humbly, inoffensively, prudently, and regardfully. The reason of these things is this, because the church makes no absolute laws; she makes them for good ends, and beyond that she hath no authority: her legislative is wholly a ministry of grace and godliness, not of empire and dominion. For the difference is this; civil laws oblige in public

and in private, for reason and for empire,—when the cause ceases, and when it remains,—when the breach is scandalous, and when it is not scandalous: but the canons of the church oblige only for their reason and religion, for edification and for charity, when the thing is useful to others or good in itself; but the authority itself being wholly for these purposes, is a ministry of religion, but hath in it nothing of empire, and therefore does not oblige for itself and by itself, but for the doing good, and for the avoiding evil: and this is that, which is meant by the cases of contempt and scandal.

These are the negative measures of ecclesiastical laws. The positive measures are these:—

RULE XIX.

Ecclesiastical Laws must be charitable and easy; and, when they are not, they oblige not.

1. When ecclesiastical laws were conducted and made by the spiritual power, the bishops, rulers of churches, before the civil power was Christian,—their laws were either commandments of essential duty, or of that which was next to it and necessary for it; or else they were indicted to a voluntary people, and therefore to be presumed easy and gentle, charitable and useful; or it is not to be thought the people would have been willing long to bear them. But when the civil power was the ecclesiastical ruler, and the commonwealth became a church, the spiritual sword was put into a temporal scabbard, and the canons ecclesiastical became civil laws, though, in their matter religious, and in their original, they were ecclesiastical. Now if the laws be established by the civil power, they must indeed be just and good; but yet if they be laws of burden, and contain a load that is supportable, they are to be obeyed. "Quod quidem perquam durum est, sed ita lex scripta est," said Ulpian[k]; "The case is hard, but so the law is written:" meaning, that though it be hard, yet the law is to be obeyed, so long as it is just. But when the ecclesiastical law is indicted by the spiritual power, the civil power only consenting and establishing the indicted

[k] Lib. Prospicit. ff. qui à quibus.

canon, that corroboration adds no other band to the canon, than that it be obeyed according to the intention of the spiritual power, only so it becomes a law indeed, but it is a law only as the church can intend a law, or desire it to be imposed; that is, what the church might reasonably persuade, and fitly enjoin, that so much and no more, in that manner and no other, the civil power does corroborate it. For the ecclesiastical canon, put into the hands of the civil power and made into a law, is like a twig of an apple-tree grafted into the stock of a thorn; it changes not the nature of it, but is still an apple: so is the canon,—still it is but an injunction of the church, though the church be enabled temporally to chastise the rebellious; but still the twig that is so ingrafted, must retain its own nature, and must be no sowerer than if it grew upon its own stock; it must be such as is fit to be persuaded, such which men can be willing to, and easy under, and of which they shall have no cause to complain. For since the church, in these things, hath no power but to exhort and to persuade, and therefore can enjoin nothing but what can be reasonably persuaded; she must not, by the aid of the temporal power, enjoin those things which are cruel and vexatious, and such to which no argument but fear can make the subject willing. The church, when she hath temporal possessions, always is a good landlady; and when she makes judgments she meddles not with blood, but gives the gentlest sentences; and when she is admitted to a legislative, she enjoins a ζύγος χρηστὸς, 'an easy, a gentle yoke;' and when she does not, the subject is concerned to avoid the temporal evil threatened by the civil power; but not to give obedience to the intolerable law of the church, as in that capacity: for unless the law of the church be such, that good men may willingly obey it, it cannot be enjoined by the church, and the church ought not to desire the civil power to do it for her; for since she hath no power to command in such things, where the divine authority does not intervene, all the rest is but persuasion; and he that hath power only to persuade, cannot be supposed to persuade against our will: and therefore matters of intolerable burden are not the matter of ecclesiastical laws, because they certainly are against the will of all men, who can serve God and go to heaven without them.

2. Not that it is permitted to any man, as he please, to obey or not to obey the ecclesiastical laws; nor that the spiritual authority so depends upon the consent of every subject, that he is at his choice, whether he will keep it or no: but that he is to obey willingly; that is, that no more be imposed than what he may be willing to; and then that he be not disobedient, when, if he were not peevish, he ought to be willing. For this is all that share of Christian liberty, which under his just superiors every single subject can enjoy; he may not break the law when he please, but when he cannot keep it; not when he is not in the humour, but when he is not in capacity; not because he will, but because without great evil he cannot.

3. I shall give an instance in the ecclesiastical laws of fasting, and, by an inquiry into their obligation, state the sense and intention of this rule.

What Persons are tied to the Observation of ecclesiastical Fasts, and in what Cases.

4. To the solution of which question, first we are to consider to what end the church enjoins her fast. For whoever is involved in that end, is also concerned in the law, ordinarily and regularly. Thus if a fast be only indicted to suppress incontinence, they who have no temptation to it, or have a sufficient remedy by which they please God, are not bound by that law, but in the cases of scandal and contempt. 'Fasting spittle kills a serpent,' saith Pierius[1]; but if a man have a rod in his hand that will do it sooner, that law would be fantastical, that should command him to stay, till he could kill the snake with his fasting-spittle. But if the church intends many good ends in the canon, any one is sufficient to tie the law upon the conscience, because, for that one good end, it can be serviceable to the soul. And indeed fasting is of that nature, that it can be a ministry of repentance by the affliction,—and it can be a help to prayer, by taking off the loads of flesh and a full stomach,—and it can be aptly ministerial to contemplation; and if fasting were only for mortification of lustful appetites, then a virgin might not safely fast in public, lest she fall into the suspicion of incontinence, or be exposed to the bolder solicitations of the young men. Now be-

[1] Lib. 14. Hier.

cause every one is concerned in some one or more of these ends of fasting, all people are included within the circles of the law, unless, by some other means, they be exempted.

5. But they are exempted from it who are sick and weak, spent with labour, or apt to be made sick, or hindered in their employment: "Nisi quem infirmitas impedierit," says the canon law[m]; all are bound to keep fasting-days but such who are hindered by infirmity,

——— seu
Dura valetudo inciderit, seu tarda senectus,

any bodily infirmity, whether of "age or sickness," weakness or disease. Concerning which, if the infirmity be evident, there is no question; for the law does except such persons in the very sanction, or public and authentic interpretations, and common usages. Women with child, children and old persons, the sick and the traveller, the weary and the weak, the hard student and the hard labourer, the poor man and the beggar, these are persons which need not ask leave; for the law intends not to bind them. Now those that are but probably so, that is, not well, apt to be sick, suspected with child, not weary, these also are within the power of having leave given them, that is, capable of dispensation; that is, it may be declared that the law intends not to bind them at all in such cases. So that upon this account none are bound but the lusty and the lazy, the strong and the unemployed.

6. Now in these things there is no other certainty but what is set down in the laws of every church respectively, save only this,—that in all churches, where such laws are used, they are never expounded by the measures of great charity and remission, excepting in such places where they place religion in external observances; and yet there also they pretend great gentleness, when they are charged with want of it by their adversaries; as is to be seen in Albericus Pius's Lucubrations against Erasmus.

7. But I consider that the laws of fasting are, therefore, very sparingly to be imposed, when there are so many causes of being excused; and not at all but upon great occasions, and particular emergencies: and when they are, the injunc-

[m] Cap. Quadragesima. de Consecr. dist. 5. et cap. 2. sect. Cum autem de Observ. Jejun.

tion is to be so made, as fewest may be excused, and none may desire it but those, who cannot help it: and the evil of the contrary is very visible and apparent in the fierce and decretory injunctions of the long Lenten fast, the burden of which is so great, that they who do not think it religion, or a law of God, or a part of the divine worship, use all the arts they can to be eased of the load, cozening the law, and easing themselves, and studying a new cookery, and destroying the end of the law by keeping the letter, and buying dispensations, and complaining of the burden, and being troubled when it comes, and glad when it is over. A law of fasting is very imprudent and very uncharitable, when it becomes, like Rehoboam's thigh, too big and too heavy for all the people: and what good is done by such fasting, that could not, with more ease and more charity, be acquired by other instruments or a better conduct of this? Mantuan[n] complained with great sorrow and great reason in this particular.

Adjungunt etiam primi jejunia veris;
Quæ nisi sint servata, volunt nos ire sub orcum.
Aspice quam duris, aiunt, frænata capistris
Gens electa fuit. Lex Christi æterna, nec unquam
Cessatura, sinus (dicunt) sine tendat in amplos,
Ut si conveniens, habilisque, et idonea toti
Humano generi, non importuna senectæ,
Non onerosa inopi, non importabilis ægro.

The laws of religion should be, like the yoke of Christ, light and easy, fitted to the infirmities and capacities of all men; for let them be ever so easy and delightful, we shall be too much tempted to neglect them, though the laws themselves be no temptation to disobedience.

8. This is certain, that in a law of so great burden in itself, and so severely imposed, and so fiercely punished, and so religiously accounted of, and so superstitiously conducted, the conscience is so certainly made restless by the scruples of the conscientious persons, the arts of the crafty, the ignorance of the over-busy, and the witty nothings of the idly-employed, that the good which accidentally may be brought to some by it, cannot pay for the many evils, which it regularly produces in others: and that law of fasting can never be so good as the peace which it disturbs. For if you

[n] Lib. 2. Fast.

pretend your youth as a just excuse from the law of Lent, you shall be told, that the fast consists in the quality of the meat, and in the singleness of the meal, and in the time of taking it; and that though you are excused from eating fish or pulse, yet you must eat but once; or if you do eat at night, yet you must not eat in the morning; or if you do, yet you are to be advised how much can be called a meal. And then you are not sure, whether you are to fast at the beginning, or not till the consummation of your fourteenth year; and when that is out, if the understanding be so little as not to understand what and why and how, you fast to no purpose; and if sooner you do understand, it may be you are obliged in conscience, though not punishable by law. If you be old, yet some old men are lusty and strong; and the church does not intend that the age alone, but that the infirmity, should excuse: and because this infirmity is divisible, it is not every infirmity that will do it; and, it may be, you are an easy and too gentle a judge in your own case; therefore you must ask; and who shall tell you? Cajetan and Navarre, Filliucius and Gregory Sayr, Diana and Azorius, understand no physic; and they can tell you something in general of the law, but nothing absolutely in your case: if you will, be at the charge and go to a physician: for, it may be, if you live in the country, you have a learned man within ten or twenty miles, or it may be forty, and upon all occasions you may know of him, whether your case requires ease; or, it may be, it requires leave this day, but you cannot have your answer so soon, and the case will alter by tomorrow; and Hippocrates [o] said, that "senes facillime ferunt jejunium," "old men bear fasting better than young men:" and though Cardan hath, upon that aphorism, spoken according to his usual manner many ingenious things, yet whether you will put your conscience upon him or no, is a material consideration. But then if you be sick, you must know whether fasting can consist with your condition: for not every sickness can excuse you from the holy fast of Lent; or if you may not eat fish, yet you may be obliged to the single refection, or to the time. But that which is of material consideration is, that though you be not well, yet, it

[o] Lib. 1. aphor. 13.

may be, your fasting will do you no great hurt, and if it be but little, it must not be stood upon; for fasting is intended to be an affliction of the body, and therefore you must not be too hasty to snatch at ease and liberty. But however, if you will inquire of learned men, you may have from the physicians some twenty or thirty rules, by which you may guess, when, and in what diseases, you are excused from the quality of the diet; when you are dispensed in the time; when in the frequency; when you must exchange one for the other: and to this purpose you may inform your conscience by reading Vallesius[p], Cardan, Hollerius, Zacutus Lusitanus, Paulus Zacchias[q], Alphonsus à Fontech[r], Cognatus[s], Arnoldus de Villanova[t], Petrus Hispanus and his author Isaac. And if you can find them agree, and that your case is described, and their rules be rightly applied, and the particulars be well weighed, and the judgment not biassed by ease and fear and too great a care of your health, you might do well, if it were not for one thing; and that is, that physicians are not to be trusted, for they will speak excellent reason for the securing of your health, but they think they are not to answer concerning the state of your soul; and therefore they lean too much upon the wrong hand for your satisfaction, especially because Lent falls in the spring equinox, in which we are very apt to sicknesses. But then if we pretend to be excused by reason of labour and travail, every man must judge for himself: and yet there are, in this, a great many things to be considered; for it must be a considerable diminution of our strength, and a great inanition of spirits, that can dispense with us in this so great a law: but how great that must be, if we be judges, we shall be too favourable; if others judge, they cannot tell; and if we fear to be gentle to ourselves, we may be too rigorous, and by the laws of fasting break the laws of charity. But then, it may be, our labour is to come, and it will be necessary, that we lay in stowage beforehand, lest we faint by the way. And it is a great labour for a man to hunt all day, or to manage the great horse,

[p] De Victus Rat. in Acut.
[q] In Specim. med. Christ. Lamin. 2.
[r] Lib. 1. Var. Lect. cap. 18.
[s] Libell. de Esu Carnium.
[t] Comm. in Isaac. de diæta particul.

——Leporem sectatus equove
Lassus ab indomito, vel (si Romana fatigat
Militia assuetum Græcari) seu pila velox [u],
Molliter austerum studio fallente laborem.

A little thing will weary a soft person, and a long sport will tire a strong man: and may not these put in their plea for a pleasant or an early meal? for hungry men will plead hard. And the labour of the mind is also a great weariness to the bones; and who shall tell me how long I must study, before I may be not allowed to keep the punctualities of Lent; for the thinking man must be fed tenderly, and furnished with finer spirits. But then who shall come into this license, is worth inquiring; whether not only the hard student, but the preacher that speaks long, and thinks little: whether schoolmasters, advocates, orators, judges; for every one would be glad of a little liberty. And if the bodily labourer shall be excused, whether all trades that sit long, and work easily, as shoemakers, tailors, glovers, bookbinders, may pretend to an exemption; for though Azorius is so kind as to except most of these, yet others do not. And what shall the poor man do? his rule is commonly to eat, when he can get it; and if he be at a friend's house, must he refuse to eat, because it is not his time? or must he starve, because there is nothing but flesh?

Unde fames homini vetitorum tanta ciborum est [x]?

Certainly he can hardly be tied to the measures and rules of eating ecclesiastically, that, every, day, is in dispute, whether he shall, or shall not, have something that he may eat naturally: but yet he is to inquire, whether he be tied on those days to fast, when he can be provided for. And it would also be known, whether a poor man is not tied to refuse flesh and require fish, where it can be had; and whether he is not bound first to spend the fragment of his fish-basket before his bits of flesh, and keep them only for necessity; and whether he may be secretly pleased, that he hath that necessity put upon him, that he hath flesh but no fish. There are also some hundreds of questions more, that might be considered; some are pleasant cases, and some are sour; some can be determined, and some cannot. But the great case of conscience, in this whole affair, is, what great good that is,

[u] Hor. S. ii. 2. 9. Gesner. [x] Ov. Met. xv. 128. Gierig, vol. 2. pag. 373.

which this law of Lent, thus conducted, can effect,—which can no other ways be effected,—and which can be greater than the infinite numbers of sins, and doubtings, and scruples, and fears, and troubles, and vexations, and sicknesses, and peevishness, and murmur, and complaints, and laborious arts of excuse, and cheating the law, and slavery, and tyranny, occasioned and effected by it.

9. For although fasting is not only an excellent ministry to some parts of religion, but of health also,

> Accipe nunc, victus tenuis quæ quantaque secum
> Afferat. In primis, valeas bene[y].——

yet all the world knows that long fasting is the most destructive thing in the world to our bodies, and breeds diseases sharper and more incurable than fulness and intemperance; and therefore the canon law[z] forbids a fast of two or three days, and a fast beyond our strength. Therefore it is certain, that the church cannot command a long fast: and therefore, in the beginning of the custom of Lent, it was but a fast of one day, or two at most, eating at night. And although this fast was then a fast of liberty, and permitted to every one's choice; yet it might be enjoined in every government, according to the fore-described measures. But that instead of a fast, the church should prescribe a diet, an ill diet, not only unpleasant, but unwholesome, and that with so much severity, and with so much danger, and so many snares, is no exercise of that power which Christ hath given to her, but of that power which is usurped, ill-gotten, and worse administered. It is against the law of charity, and therefore ought not to be a law of the church; that men be tied for forty days together to keep from their usual diet, not to be temperate, but to be vexed and ruled, this I say is uncharitable, and therefore unlawful.

> Hoc hic quidem homines tam brevem vitam colunt.
> Cum hasce herbas hujusmodi in suam alvom congerunt,
> Formidolosas dictu, non esu modo:
> Quas herbas pecudes non edunt, homines edunt[a]:

As the cook in the comedy complained, "Eating herbs and ill diet make men to live such short lives."—And what in-

[y] Hor. S. ii. 2. 7.
[z] Cap. Non dico, &c. non Mediocriter. de Consecr. dist. 5.
[a] Pseudol. act. 3. scen. 2. 33. Ernesti, vol. 2. pag. 156.

terest of religion is served by eating fish and nettle-pottage, is not obvious to him that hath tried it, or can consider it.

Thestylis hanc nimio pultem sale fecit amarum [b];

death and sickness are in this pot. And I remember to have heard a friar, none of the meanest of his order, say, that he never kept Lent for a long time together, but, at Easter, he had a great fit of sickness: and therefore as the canonists say, that a future labour and weariness may legitimate the breach of the strict measures of the law, as well as if it be actual and present; so may the fear of sickness as well take off the obligation, as when it is present: and of this, every man that is not of an athletic health, hath reason to be afraid.

10. But that which relates also very much to the law, though not so much to us, is this, that all this trouble is for little or no good; if there be any good in it, it is relative and transient, and contingent, and inconsiderable, and without hazard otherwise to be acquired. For though fools and poor folks are sometimes pressed with the evils of such a change of diet, yet the witty and the rich can change all that law into the arts and instruments of pleasure. For the greatest feasts, and the greatest epicurisms use to be in fish. So he in the comedy,

Musice hercle agitis ætatem; ita ut vos decet:
Vino et victu, piscatu probo, electili
Vitam colitis [c],

Wine and choice fish make music at the table.

In re præsenti, ex copia piscaria
Consulere, quid emam [d].

They are forbid no sorts, no quantity, no delicacies, of fish or wine. And if this be objected to them, they answer, that fish is less pleasant, less nutritive, than flesh, and therefore wisely chosen by the church to be the entertainments of our Lenten table: but if you object, that fish is therefore not to be eaten because it is unwholesome, breeds ill juices, and afflicts the body [e]; they answer, that we are not mistaken; that fish is a delicacy; that Alexander the Great was so de-

[b] Mantuan. [c] Mostell. act. 3. scen. 2. 40. Ernesti, vol. 1. pag. 432.
[d] Casina, act. 2. scen. 8. 63. Ernesti, vol. 1. p. 257.
[e] Vide Paul. Zacchiæ Quæ. medico-legal. lib. 5. tit. 1. quæst. 2. lib. 2. de Conviv. cap. 25. vide Athenæum, lib. 1. Deip. cap. 25.

lighted with little fishes, that he would send them for presents to his dearest friends; that Suetonius tells the same of Augustus Cæsar; that Bullinger tells that the Rhodians esteemed them, that loved and lived much upon fish, to be gentlemen and well bred,—and all other, clowns and of a rude palate; that Julius Cæsar at one triumphal feast entertained his guests with eight thousand lampreys; that the great feast which Metellus made, and which we find described in Macrobius[f], was especially made costly and delicious with the fish there presented.

——quo pertinet ergo Proceros odisse lupos?

He therefore that objects against the severity and affliction of the Lenten diet, knows not the arts of feasting; and complains of the church for a step-mother, when she is not only kind, but fond also of making such provisions. But if fish be unwholesome, then eat herbs, but at no hand flesh.

Parcite, mortales, dapibus temerare nefandis
Corpora. Sunt fruges, sunt deducentia ramos
Pondere poma suo, tumidæque in vitibis uvæ:
Sunt herbæ dulces, sunt, quæ mitescere flamma,
Mollirique queant. Nec vobis lacteus humor
Eripitur, nec mella thymi redolentia florem.
Prodiga divitias alimentaque mitia tellus
Suggerit, atque epulas sine cæde et sanguine præbet.
Carne feræ sedant jejunia [g].

For lions and wolves, tigers and bears, eat flesh; but God hath provided great variety of other things besides flesh. In some places, milk is permitted,—in all, herbs, and fruits, and broths: and these are agreeable to a weak stomach; according to that of St. Paul, "Qui infirmus est, olus manducat;" "He that is weak, eateth herbs;"—it is the argument of Bruyerinus [h].

11. But I shall make a better use of it, if I shall observe that St. Paul gives it as a note of infirmity, when Christians, upon pretences and little arguments, shall not dare to eat flesh, but instead of them eat herbs;—they are weak in the faith that do it; and do not consider, that flesh can as well be sanctified by the word of God and prayer, as lettuce and asparagus: and that a little flesh and coarse and common,

[f] Lib. 3. Saturnal. cap. 13. [g] Ov. Met. xv. 75. Gierig, vol. 2. pag. 368.
[h] De Re Cibar. lib. 8. cap. 1.

will better serve the end of fasting,—and that fasting better serve the end of religion, than variety of fish, and a belly filled with fruits, and wind, and superstition. All, or any thing, of this may be done in discipline, and with liberty: but because it may be unfit for so very many, and for all at some time, and may produce much evil, and hath in it no more good than to give us cause to say that it may be used, it is a very unfit thing to become the matter of an ecclesiastical law, a trouble and danger to the body, and a great snare to the conscience, which it may entangle, but it can never cleanse.

——pinguem vitiis, albumque, neque ostrea,
Nec scarus, aut poterit peregrina juvare lagois[1].

To eat fish or herbs is of so little use in religion, it is so trifling an exercise of the body by restraining the appetite, that besides that all "bodily exercise profiteth but little," this is so little of that, as it is conducted, and as it is even in the very permissions of the law, that it is not worth all this discourse about it; only to rescue the conscience from such snares and little entanglements is of great concernment. Fasting is very good to some purposes, at some times, and to some persons: but laws regard that 'quod plerumque est;' and therefore, in the matter of a periodical and long-continued fast, cannot but be uncharitable and unreasonable, and therefore when there is cause for such injunctions, they are to be pressed with argument and exhortation, not by empire and necessity. For supposing the law otherwise without objection, yet he that fasts against his will, does not serve God; and therefore externally to be forced to do it, is not a lawful exercise of an ecclesiastical power.

12. The sum is this. If it be the fast of one day, it may be indicted by our lawful superior, with the measures of prudence and charity, and according to the needs of the church. But if it be the fast of many days together,—it is a burden, and therefore not to be exacted, lest it be uncharitable. But if there be a law, the law ought to bend in all the flexures of reason and a probable necessity, and to prevail only by the reason of the thing, not the force of a command. But if it be no fast, but a change of diet, it is of so little profit, that

[1] Hor. S. ii. 2. 21.

it will not recompense the trouble, and will turn into superstition, and will more minister to evil than to good, and is not properly the matter of an ecclesiastical law, and the bishop hath no power to make a law in this matter: it is not for God, and it is not for religion, but for vanity, or empire, or superstition.

13. This only I am to add in order to the determination of our conscience in the practice of this inquiry, that if there be a law made by the civil power for the keeping Lent, then it is for civil regards, and the law is not for superstition, but therefore to be observed, as other civil laws are, with the same equity and measures of obedience; of which I am to give further accounts in the chapter of interpretation and diminution of human laws. But if it be still an ecclesiastical law, indicted and suggested by the spiritual power, and only corroborated by the civil power, and for them efformed into a law, then it obliges the conscience no otherwise, than it did, and ought to do, in the hands of the spiritual power; that is, only when the law is for good, and not for evil,—with Christian liberty, and not a snare,—when it is fit to be persuaded, and ought to be complied with,—then and there it may be indicted, and is to be obeyed accordingly.

RULE XX.

Ecclesiastical Laws must ever promote the Service of God and the Good of Souls; but must never put a Snare or Stumbling-block to Consciences.

1. The holy primitives, in their laws and actions, ever kept that saying of the Apostle in their eye and in their heart, Πάντα πρὸς οἰκοδομὴν γενέσθω, "Every word, every action, must be" πρὸς οἰκοδομὴν τῆς χρείας, "for the use of edifying[k]." Let all things be done for edification: and therefore much more must laws, which have a permanent causality and influence upon the actions of the church; for therefore, they are either a permanent good or evil.

2. When the churches had hope of converting the Jews by gentleness and compliance in some outward rites, the

[k] 1 Cor. xiv. 26. Ephes. iv. 29.

church made laws of combination and analogy, of continuation and correspondence in some observances. Thus the apostles, at the council of Jerusalem, indicted the abstinence from blood, as being infinitely offensive to the Jews, and apt to estrange their hearts from the whole religion of them that ate it. And therefore the law was made, that it might cement the stones of the spiritual building, and the Jews and Gentiles might make the two walls of the church. But when the Jews refused to come in [l], and excepting the remnant only (of which St. Paul speaks) which were saved, the rest grew to hate the Lord of life, then the church considered, that to use their liberty would be for the edification of the church of the gentiles; and then they remembered that "Moses had given the Jews flesh, but forbade them blood, but Christ gave us both flesh and blood, and forbade neither;" and therefore they returned to that use of it, that was most for charity and liberty, instruction and edification. Upon the same account, though the church was kind to the Jews, yet they would take care not to offend any of her children by retaining words, that might abuse them into a good opinion of their religion; and therefore, at first, they abstained from the name of priest, and temple, as is to be observed in Justin Martyr, Ignatius, and Minutius. At the first the Christians kept the Jewish sabbath; but in the council of Laodicea [m] it was forbidden; and in the seventieth canon of that collection, which goes under the name of the apostles, which was published much about the same time, the Christians are forbidden "neque jejunia cum Judæis exercere, nec festos dies agere, nec quæ in ipsorum celebritatibus xenia mittuntur, accipere;" "to keep the Jewish fasts, or feasts, or to receive their presents," viz. of unleavened cakes, which, upon those days, they usually sent abroad. And the reason of the prohibition is, lest Judaism should be valued, and lest Christians be scandalized at such compliance, as Zonaras and Balsamo note upon that canon of the Laodicean council, but is more fully discoursed by Constantine upon the keeping of Easter, as Eusebius [n] reports in his life.

3. To this end all laws and canons must be made; not only for that reason, because 'the end of the commandment is charity,' and of all ecclesiastical government is 'the build-

[l] Vide ult. caput 2. libri. [m] Can. 29. [n] Lib. 3. cap. 17.

ing up the church in love[o];' but because the church hath no power to make laws which are not for edification: and this the Apostle testifies twice[p] in one epistle, using the same words; that the power and "authority which the Lord had given to him, was for edification, not for destruction." And this is not only so to be understood, that if the church makes laws, which are notfo r edification, she does amiss; but that she obliges not, her laws are null, and do not bind the conscience. For it is otherwise here than in civil laws: right or wrong, the civil constitutions bind the body or the soul; but because the verification of the laws of the church is in the hands of God, and he only materially and effectively punishes the rebellious against this government, it is certain he will do only according to the merit of the cause, and not verify a power which he hath forbidden. But in the civil courts, there is a punishment that is exterminating or afflictive, which can punish them, whom God will finally absolve. Therefore it is, that, when the church does any thing beyond her commission, she does no way oblige the conscience, neither actively nor passively: the church punishes no man temporally, and God will not either temporally or externally afflict those, who do not obey there, where he hath given no man power to command. And this is greatly to be observed in all the cases of conscience concerning ecclesiastical laws. If we understand, where the spiritual power can command, where she can exhort and ought to prevail, we have found out all the measures of our obedience. But if she goes beyond her commission, she hurts none but herself; for she hath nothing to do with bodies, and our souls are in safe hands. And the case is much alike, in case the spiritual law be bound by the civil power: for the king, when he makes laws of religion, is tied up to the evangelical measures; and if he prevaricates, he does indeed tie us to a passive obedience, but the conscience is no otherwise bound; and he is to govern Christ's church by the same measures, with which the apostles did; and the bishops their successors did, and ought to do, before the civil power was Christian. For he hath no more power over consciences than they had; and therefore he ought not, by the afflictions of the body, to invade the soul: but if he does, ἔχει δύναμιν, ἀλλὰ μὴ ἐξουσίαν, "he hath power" over

[o] Ephes. iv. 16. [p] 2 Cor. x. 8. xiii. 10.

bodies, "but no authority" over the conscience. This being considered, the rule hath effect in the following particulars.

4. This rule is to be understood positively and affirmatively; that is, the church in all her constitutions must take care, that the church be edified and built up in some grace or other: but not so, that whatsoever is for edification, she hath power to command. The measures and limits of her legislative power I have already described[q]; it must be within those circles: and though other things without them may be useful, and fit for instruction, or to promote the interest of a virtue; yet Christ hath left them at liberty, and his church hath no power to bind beyond his commission. They can exhort and persuade, and, by consent, they can prescribe; but to the making of a law there is something else required, besides that it be apt to edify or to instruct. For (besides that it must be of something placed in her power) it must edify, and not destroy; it must build up, and not pull down; that is, it must build with all hands, and not pull down with one.

5. I instance in the institution of significant ceremonies, that is, such which are not matters of order and decency, but merely for signification and the representment of some truth or mystery. Those which are prudently chosen, are in their own nature apt to instruct. Thus the use of pictures in the Greek and in the Lutheran churches is so far useful, that it can convey a story, and a great and a good example to the people that come thither, and so far they may be for edification. But because these can also, and do too often, degenerate into abuse and invade religion,—to make a law of these is not safe; and when that law does prevail to any evil, that it is not easily by any other means cured, it does not prevail upon the conscience: and indeed to make a law for the use of them, is not directly within the commission of the ecclesiastical power.

6. But there is also more in it than thus. For although significant ceremonies can be for edification to the church in some degree, and in some persons; yet it is to be considered, whether the introducing of such things does not destroy the church, not only in her Christian liberty, but in the simplicity and purity and spirituality of her religion, by

[q] Rule 1—4 of this chapter.

insensibly changing it into a ceremonial and external service. To the ceremonial law of the Jews nothing was to be added, and from it nothing was to be subtracted; and in Christianity we have less reason to add any thing of ceremony, excepting the circumstances and advantages of the very ministry, as time and place, and vessels and ornaments and necessary appendages. But when we speak of rituals or ceremonies, that is, exterior actions or things besides the institution or command of Christ, either we intend them as a part of the divine service, and then they are unlawful and intolerable; or if only for signification, that is so little a thing, of so inconsiderable use in the fulness and clarity of the revelations evangelical, that besides that it keeps Christians still in the state of infancy and minority, and supposes them "always learning, and never coming to the knowledge of the truth," it ought not to stand against any danger or offence, that can, by them, be brought to any wise and good Christians.

7. In some ages of the primitive church, and in some churches, they gave to persons to be baptized milk and honey or a little wine (as we read in Tertullian[r] and St. Jerome[s]), to signify that those catechumens were babes in Christ; and in a rebus to recommend to them that saying of St. Peter, "As new-born babes, desire the sincere milk of the word." Now besides that this was not usual, to give hieroglyphics where they had plain precepts, and to give signs of things that were present and perceived, it was of very little use, so that all churches that I know of, have laid it aside. It was also a custom anciently, when they brought the bread and wine to the altar or communion-table, to present milk along with it; and this also did signify nutrition by the body and blood of Christ. But the council[t] of Bracara forbade it upon this reason, "quia evidens exemplum evangelicæ veritatis illud offerri non sinit," "because Christ did no such thing, and commanded no such thing;" and therefore nothing is to be added to those ceremonies, which Christ left. And indeed if the church might add things or rituals of signification, then the walls might be covered with the figures of doves, sheep, lambs, serpents, birds,—and the communion-table with bread, wine, herbs, tapers, pigeons, raisins, honey, milk, and

[r] Lib. 1. contr. Marcion. [s] Dial. adv. Luciferianos. [t] Cap. 1.

lambs, or whatever else the wit of man or the nature and sense of the mysteries might invent or import. But concerning such things as these, the judgment of Balsamon[a] is this; "Eos malefacere arbitror, qui in ecclesia columbas emittunt pro Spiritus Sancti adventu; et qui pro illa stella, quæ novo modo apparuerat, et erat admirabilis, cereos accendunt; et qui arcanam et salutarem Domini, et Dei, et Servatoris nostri Jesus Christi generationem toro strato exprimunt; et quæ sunt supra rationem et mentis cogitationem, humanis adinventionibus describunt:" "To let a pigeon fly to signify the coming of the Holy Spirit; to light up candles to represent the Epiphany; to dress a bed to express the secret and ineffable generation of the Saviour of the world;" to which he might have added, to prepare the figure of the crucifix, and to bury an image to describe the great sacrifice of the cross for the redemption of mankind: these are things to no purpose: not only for the levity and theatrical gaieties and representments unbefitting the gravity and purity and spirituality of Christian religion; but also the manner of teaching these truths by symbolical things and actions, is too low, too suspicious, too dangerous, to be mingled with the divine liturgies. Christ may, as he please, consign his own good things that he gives us; but he consigns no good, and represents none, but what he also gives and effects in that ministration and under that sign: but a symbolical rite of human invention to signify what it does not effect, and then introduced into the solemn worship of God, is so like those vain imaginations and representments forbidden in the second commandment, that the very suspicion is more against edification than their use can pretend to. But if any such ritual or ceremony be introduced by custom or by consent, it ought to be used as men use their champignons; they boil them in three or four waters, cleansing them both by water and fire, before they be used at all; much more before they be persuaded into a law.

8. But when they can be innocently used, that is, when they can be made useful, and yet be innocent in themselves, yet it is to be taken care of, that they may not only by their abuse, or by mistake, but that by their number they be not troublesome and inconvenient. This advice I learn from St. Austin, in whose time the church had gone beyond

[a] In Can. 82. synod. 6. in Trullo.

her rule and beyond her power in the introducing or permitting to be introduced very many significant ceremonies; every one of which he could not directly blame, but yet they were servile burdens, and intolerable besides, by their number and their load. "Etiamsi[x] non intelligatur quomodo contra fidem sunt, tamen quoniam onerant religionem, et servilibus oneribus premunt quam Christus voluit, paucissimis et manifestis sacramentis, liberam esse; propterea faciunt ut tolerabilior sit conditio Judæorum, qui etiamsi tempus libertatis non agnoverunt, legalibus tamen sarcinis subjiciebantur, non humanis præsumptionibus:" "Although it is not to be understood, how these things are directly against the faith, yet they burden religion, and load with a servile pressure her, whom Christ left free and charged only with the two sacraments: therefore our case is worse than that of the Jews; for though they had not a time of liberty, yet they were charged only with burdens that God imposed, but not with the presumptions of man:" which words are a severe condemnation of such laws and customs ecclesiastical. And therefore there is reason to celebrate and honour the wisdom and prudence of the church of England, which hath, in all her offices, retained but one ritual or ceremony, that is not of divine ordinance or apostolical practice, and that is, 'the cross in baptism:'—which though it be a significant ceremony, and of no other use, yet as it is a compliance with the practice of all ancient churches[y], so it is very innocent in itself; and, being one alone, is, in no regard, troublesome or afflictive to those, that understand her power, and her liberty, and her reason. I said, she hath one only ceremony of her own appointment; for the ring in marriage is the symbol of a civil and a religious contract; it is a pledge and custom of the nation, not of religion: and those other circumstances of her worship, are but determinations of time and place and manner of a duty; they serve to other purposes besides signification, they were not made for that, but for order and decency, for which there is an apostolical precept, and a natural reason, and an evident necessity, or a great convenience. Now if, besides these uses, they can be construed to any good signification or instruction, that is so far from being a

[x] Epist. 119. cap. 19.
[y] S. Cyprian. de Lapsis: et epist. 56.

prejudice to them, that it is their advantage, their principal end being different, and warranted, and not destroyed by their superinduced and accidental use. In other things we are to remember, that figures and shadows were for the Old Testament, but light and manifestation is in the New. And the Egyptians indeed did teach religion by symbolical figures; and, in the eastern empire, their laws were written with characters and abbreviatures; and in the schools of Plato and Pythagoras they taught their scholars by numbers and figures; and Diodorus of Tarsus, and Origen, brought in an allegorical way of expounding the Scriptures; and almost wholly, but certainly too much, left the literal and simple way of interpretation; and so do the perfectionists and some others at this day: but we that walk in the light of the gospel, and rejoice in that light, have received from Christ and his apostles an easier way of teaching the people; and are not therefore to return to the elements and rituals of Jews and pagan schools. Christ left no sign but two, that did also effect as well as signify: and if they had only signified, and done no other good, we have no reason to believe, that they would have been appointed. But this thing is gone into so great inconvenience in the church of Rome, that there are not only so many ceremonies as do fill a book 'in folio;' but the reasons and significations of them are offered to us by Durandus, Durantus, Vicecomes, and others: but it is certain, that all the propositions and mysteries, signified by them, are very much sooner learned than the meaning of those ceremonies. But that those rituals or circumstances of liturgy, the actions, gestures, habits, and instruments, of order and decency be also significant, gives an advantage to the things themselves, and makes their first-intended ministry of some more usefulness.

9. Ecclesiastical laws are not then for edification, when they give offence to the wise and to the good, to the lovers of peace and the obedient to government; that is, when there is in their nature so much real evil, or so much cause of jealousy, of which the lawgivers cannot purge them, that the good and complying principles that are in the good subjects, cannot be sufficient to give them entertainment. But of this the lawgivers are to be the judges; and if they insist upon them, when there is cause enough to lay them aside,

they "sin against their brethren, and they sin against Christ." But the laws themselves do not bind, if the exceptions against them be just and reasonable and sufficient: which whether they be or no, the church-rulers shall judge at present, and God shall judge at last: and in the meantime, there can be no other rule given, but that the superior and inferior endeavour, by all ways of prudence and humility, to satisfy one another. A peaceable mind, and willingness to learn, and a charitable exposition, are the just dispositions of the subject's duty; and the governors are to take all the care of souls, that can be supposed to be the duty of spiritual fathers: and if these things be done, there will be no hatred, and no reproach, and no schism. But if the question be who shall yield, the governors certainly have authority, and the others say they have reason: the one ought to be pitied, and the other ought to be obeyed; but both ought to yield: only the subject must yield outward obedience, though otherwise it were not necessary, yet if it be lawful, it accidentally becomes so; and if it be not lawful, or if he thinks it is not, yet he must be careful he give no offence, but modestly, humbly, and without reproach, offer his reasons against the law. But then the governors also must yield: they must not consider how much is possible for them, but how much is fit; they must meditate nothing of empire, but much of charity; they must consider which will do most good to the souls, to whom they do relate; they must with meekness instruct the gainsayers, and with sweetness endeavour to win them, and bear with the infirmities of the weak, if they can perceive the weakness to be innocent. But if a crime be mingled with it and be discerned, it is matter of edification, that such criminals be discountenanced, and the authority be immured and kept from contempt. But in these and the like accidents, the Spirit of God must be invocated and implored and endeared, that, by his aids, the church may be safely and wisely and charitably governed. Whoever wants wisdom, must ask it of God; and God will be easily entreated to do good, and to give good things.

10. This only is to be added, that according as the matter of the laws is of advantage, or necessity, or only of convenience more or less, so are the governors of churches and guides of souls to be more or less easy in dispensing or an-

nulling their laws: till then, neither the rulers nor the subject can, by any other means, be excused from sin, but by a hearty inquiry, and a sincere humble labour to do their duty to each other, according to the best of their understanding. For if this does not prove a just compliance, it will at least preserve peace and innocence; and though the first is best, because it includes these, yet these are the next best.

11. Ecclesiastical laws that encourage and adorn, and add degrees and moments and zeal to the service of God, are good ministries of edification; and till by excess or accident they convert into evil, are of themselves fit to minister to religion.

Of Music in Churches.

Thus the use of psalmody or singing of psalms, because it can stir up the affections, and make religion please more faculties, is very apt for the edification of churches. The use of musical instruments may also add some little advantages to singing, but they are more apt to change religion into air and fancies, and take off some of its simplicity, and are not so fitted for edification. "Ad disciplinas aliquid artificiale organum non esse adhibendum," said Aristotle, as he is quoted by Aquinas[z]; "Artificial instruments are not fit to be applied to the use of disciplines:"—that is, the music of instruments of itself does not make a man wiser, or instruct him in any thing. This is true, and therefore they are not, of themselves, very good ministries of religion. But vocal music, being natural, and the action of a man with the circumstance of pleasure, if it come to invest religion is of great use, as all the experience of man can tell. Instruments may guide the voice, and so they may be used; but they are but a friend's friend to religion, and can have no near relation to the service of God. Justin Martyr,[a] asking the question, why the church uses songs in her liturgy, after the manner of the unwise and weak under the law,—answers, *οὐ τὸ ᾄσαι ἁπλῶς ἐστι τοῖς νηπίοις ἁρμόδιον, ἀλλὰ τὸ μετὰ τῶν ἀψύχων ὀργάνων ᾄσαι, καὶ μετὰ ὀρχήσεως καὶ κροτάλων*, "that merely to sing is not proper to weak and ignorant persons,—but to sing with inanimate instruments, with dancings and with timbrels: therefore in the churches we do not use hymns

[z] 22æ. q. 91. art. 2. [a] Quæst. 107. ad Orthod.

with such organs or instruments."—And St. Chrysostom [b] saith, that those instruments were permitted to the Jews 'ob eorum imbecillitatem,' 'for their weakness:' and he adds, "As the Jews did praise God by all the instruments of music, so we are commanded to praise him with all our members, our eyes, our tongues, our ears, our hands."—The same thing is also affirmed by Isidore Pelusiot [c]; "Since God permitted sacrifices and effusions of blood for their childishness, it is no wonder that he did tolerate that music, which is made by the harp and psaltery." But then in relation to us, he expounds that psalm to signify not literally, but mystically. By 'the sound of the trumpet' he understands 'the memory of the resurrection;' by 'psaltery and harp,' our 'tongue and mouth;' by 'timbrel and dances,' our 'body and mind;' by 'every thing that hath breath,' 'every spirit:' angels and men are called upon to praise the Lord. But now upon this account we may easily perceive the difference of vocal from instrumental music in churches; this being but typical of that, and permitted then when they knew not so well to use their voices and tongues to praise the Lord. And certainly the difference is very material; not only because we find these wise men saying that instruments were typical and permitted διὰ νηπιότητα, "for their tenderness and infancy;" but also, because, by the voice and tongue, we can properly and directly serve God, and as well by singing as saying, and better, if it be better; which can never be said of instrumental music: which though I cannot condemn, if it be used as a help to psalmody, yet it must not be called so much as a circumstance of the divine service; for that is all can be said of vocal music. But of this the use is very great, and I will only represent it in the words of Justin Martyr [d]; Ὑπολέλειπται τὸ ᾄσαι ἁπλῶς, "Simple and plain singing is left in churches. For this stirs up the mind with a certain pleasure unto an ardent desire of that, which is celebrated in the song; it appeases the desires and affections of the flesh; it drives away the evil thoughts of our enemies, that are invisible and secretly arise; it makes the mind irriguous and apt to bring forth holy and divine fruits; it makes the generous contenders in piety, valiant and strong in adversity; and it brings a medicine and remedy to all the evil accidents of our life. St.

[b] In Psalm cl. [c] Lib. 1. ep. 457. [d] Ubi supra.

Paul in his spiritual armoury calls this 'the sword of the Spirit:' for it is, all of it, the word of God which is celebrated, in the mind, in the song, and in the verse: it drives away evil spirits, and the pious mind is, by the songs of the church, perfected in virtue." The eulogy is fair and large: but yet all wise and sober persons do find fault, when the psalmody, which is recommended to us by the practice of Christ and his apostles, does sensibly pass further into art than into religion, and serves pleasure more than devotion; when it recedes from that native simplicity and gravity, which served the affections and holy aspirations of so many ages of the church; when it is so conducted, that it shall not be for edification, that is, when it is so made accurate and curious that none can join in it but musicians, and they also are not so recitative, they do not sing and express the words so plainly, that they which hear, do understand; for by this means the greatest benefit and use of edification are lost: as appears in those words of St. Basil[e], who when he had highly commended τῆς μελῳδίας τερπνὸν τοῖς δόγμασιν ἐγκαταμιχθὲν, "the delight of melody mingled with heavenly mysteries," he adds, Διὰ τοῦτο τὰ ἐναρμόνια ταῦτα μέλη τῶν ψαλμῶν ἡμῖν ἐπινενόηται, "For this cause were the tunes of harmonious psalms devised for us," that they which either are young in years, or novices in instruction, might, when they think they sing, have their souls instructed in the truth. Ὦ τῆς σοφῆς ἐπινοίας τοῦ Διδασκάλου, ὁμοῦ τε ᾄδειν ἡμᾶς καὶ τὰ λυσιτελῆ μανθάνειν μηχανωμένου, "O the great wisdom of our heavenly Master, which, at the same time, designs to have us pleased and instructed to perfection by the singing of psalms!" But in this and all things like this, the rulers of churches are to do that which most promotes the end of their institution. 'Salus populi suprema lex esto,' is a rule, which in this affair hath no exception: the salvation of one soul is more than all the interests in the world besides.

12. Although counsels evangelical, being observed, are greatly for the glory of God and for the edification of the church; yet it is not for edification that they be enjoined, and therefore make not the proper subject and matter of ecclesiastical laws: and the reason is, all that wisdom by which God was moved not to enjoin it, even because all men

[e] In Psalm.

cannot take it, and few men will; and the imposition is not ζυγὸς χρηστὸς, 'a gentle yoke,' but is a perpetual snare. For here is the difference between things indifferent and counsels evangelical, though alike they be left under no command by God, for several reasons: for things, in themselves indifferent, are too little for the service of God, and counsels evangelical are too great for our strengths; and therefore God will not be worshipped by those, and he will not put any necessity upon these: but yet those may be made matter of human laws, because they may become useful to many purposes; but counsels cannot be made into laws, not because the nature of the things themselves will not bear the load of a commandment, but because our natures will not: and therefore they are to be advised, encouraged, preached, practised, commended, and rewarded; any thing but enjoined, or made into necessary duty. And indeed, when we consider that counsels of perfection are a direct worship of God when they are performed, and that God only is to make laws of his own worship and direct religion, and that in these he would make no law, because these should not become necessary, but the instruments of a voluntary service, that in these things we might show our love, as in the matter of his laws we show our obedience; the church cannot have a power legislative in these, for she is the mouth of Christ, to command what he commands, to exhort to what he exhorts. And as the church cannot make that to be a part of the divine worship which God hath made so, and therefore things indifferent may become ministries and circumstances of religion, but no parts of it; so neither can any thing be otherwise a divine worship than God hath made it: and therefore man cannot make that to be a necessary worship which God hath not made so, but hath choosingly and wisely left to the choice of our will and love. And to this sense was that saying of Athenagoras in his Apology for the Christians, "Deus ad ea, quæ præter naturam sunt, neminem movet," "God moves no man to do things which are besides his nature;"—that is, he urges no man to do such things, which must suppose great violence to be done to nature.

13. But the great matter in this whole affair is, that counsels evangelical, when they are not left at liberty, become a snare; not only because they are commonly great viola-

tions of our desires, or great invasions of our interests, and therefore fit only to be undertaken by a very few, and after a long experience of their strength: but also, because though they be excellences in themselves, yet, in some cases and in some conjugations of circumstances, they do destroy another duty: as giving all our goods to the poor hinders us from making provision for our relatives; a state of celibate exposes us to a perpetual ustulation; and then, either by our contrary state of affairs, or by our unequal strengths, pull down that building which they intended to set up. Some canonists say, that the church forbids a mutual congression of married pairs upon festival-days; upon which days the Jews thought it a special duty, but the heathens abstained: but how if one be willing, and the other is not? he shall be put to dispute between two duties, justice and religion, and shall be forced, like him in the satire, to ask pardon for doing of his duty;

> Ille petit veniam, quoties non abstinet uxor
> Concubitu sacris observandisque diebus [a].

The council of Eliberis commanded abstinence from conjugal rights for three or four or seven days before the communion. Pope Liberius commanded the same during the whole time of Lent; "quia pene nihil valet jejunium, quod conjugali opere polluitur;" supposing the fast is polluted by such congressions: but because this relied upon an heretical stock, that marriage is unclean, and scarce to be allowed to be holy,—of itself it seems unreasonable: but when they commanded that those which were married, should that day communicate, and they that did communicate, should that night abstain (but that they had no power to command any such thing); the law itself laid a snare for souls: and, if it could have changed the action into a sin, would have engaged most married pairs to become sinners.

14. Upon the same account, but upon very much more reason, those churches, which enjoin celibate to all their numerous clergy, do unreasonably and uncharitably; they have no power to make any such law; and, if they had, they ought not to do it, upon the account of this rule,—because they ought not to lay a stumbling-block and a stone of offence in their brother's way.

[a] Juven. vi. 535. Ruperti, pag. 129. 2d edit.

Of the Marriages of Bishops and Priests.

15. Now concerning this, I shall, (1.) Consider the purpose and influence of the rule upon it. For if this be a stone of offence, if this law be directly and regularly a snare to consciences,—it is certain it is an ungodly law, and of no obligation to the subjects of any church. Now this relying upon experience, and being best proved by the event of things, will be sufficiently cleared by the testimony of those wise persons, who have observed the evil, and wished a remedy by annulling the law.

16. Æneas Sylvius[f], who was afterward Pope Pius II., said that the single life of the clergy was upon good reason at first introduced, but that for better reason it ought now to be let alone and taken off. And of the same mind was Panormitan[g]; saying that 'we are taught by experience, that from this law of celibate, not continency but a contrary effect does follow: for the priests do not live spiritually, neither are they clean, but are polluted with unlawful mixtures to their great sin and shame, whereas it were chastity if it were a society with their own wife.' And indeed the scandal was so great, the stories so intolerable, their adulteries so frequent, their lusts so discovered, and the accidents so ridiculous, that the clergy became the contempt and jest of buffoons and drunkards, and the pity and shame of wise and sober men. And it was a strange thing, which, in the history of the council of Trent, is told out of Zuinglius[h], that writing to the cantons of the Swisses, he made mention of a law or edict made by the magistrates their predecessors, that every priest should be bound to have his proper concubine, that he might not ensnare the chastity of honest women; adding, that though it seemed a ridiculous decree, yet it could not be avoided, unless the word 'concubine' were changed into 'wife,' and the permission, before given to unlawful concubinate, might be given now to lawful marriage. And who please to see instances more than enough to verify the infinite scandals given by the unmarried clergy generally, may be glutted with them in Henry Stephen's Apology for Herodotus. But if he be less relied upon, as being a friend to the complaining

[f] Platina in Vita Pii II. et Sabellicus Ennead. 10. lib. 6.
[g] In cap. Cum olim de Cleric. Conjugat.
[h] Vide etiam Sleidan. lib. 3.

side, the testimony of Cassander[i] will not so easily be rejected, saying, "If ever there was a time for changing of an old custom, certainly these times require it; when all the best and most religious priests acknowledging their infirmity, and abhorring the turpitude of perpetual fornication, if publicly they dare not, yet privately they marry." And they that did not, did worse: "for things (saith he) are come to that pass, that scarce one in a hundred abstains from fellowship of women." And Alvarus Pelagius[k], telling sad stories of the incests, uncleanness, and fornications, of the priests and friars, tells of their gluttony, their idleness and ease, their pride and arrogancy, their receiving boys into their houses and cloisters, their conversation with nuns and secular women; that it is no wonder there is among them so impure a clergy, that so many good men have complained, and all have been ashamed of it. And therefore upon this account, we may consider the evils, which the church suffers by such a law, which permits their clergy to walk in the fire, and commands them not to be burned [or rather not that so much, but that they forbid them the use of cold water]: I say, we may consider the intolerable scandals, the infinite diminution of spiritual good, the great loss and hazard of souls, when fornicators and adulterers, pæderasts and the impurest persons, shall, by their sermons and common talk, dishonour marriage,—and, at the same time, put their polluted hands to the dreadful mysteries, and their tongues to sing hymns to God, and to intercede for the people, who, the night before, have polluted the temples of the Holy Ghost, and defiled them unto the ground. But I had rather these things were read in the words of other men, and therefore I shall remit the reader that would see heaps of such sad complaints, to the 'Via Regia' of Weicelius, to Andreas Fricius Modrevius 'de Matrimonio Presbyterorum,' and in his Apology[l]; Albertus Pighius[m]; Dominicus Soto[n]; the 'Centum Gravamina Germaniæ[o];' John Gerson[p]; Polydore Virgil[q]. Many more might be reckoned, but these are witnesses beyond exception; especially if we add that the complaints were made by wise

[i] Art. 23.
[k] De Planctu Ecclesiæ, lib. 2. art. 73.
[l] Cap. 20. lib. 4. de Eccles.
[m] Controvers. 15. sub initio.
[n] Lib. 7. de Just. et Jur. q. 6. art. 1.
[o] Gravam. 75. et 91.
[p] De Vita Spirit. Animæ, sect. 4. corol. 14. prop. 3.
[q] De Invent. Rerum. lib. 5. cap. 4.

and grave men many ages together, and that their complaints were of an old canker in the church, that could never be cured, because the spiritual physicians did see, but would not take the cause away. For this thing we find complained of by St. Bernard, Rupertus Tuitiensis's contemporary, who compares the clergy of that age to the Nicolaitans, whom God hated for their uncleanness; by the author of the book 'de Singularitate Clericorum' attributed to St. Cyprian[r]; by Gulielmus Durandus[s] in his book 'de Modo Concilii Generalis Celebrandi;' St. Hudelricus bishop of Augsburg, who wrote against the constrained single life of priests to Pope Nicolas; Robert Holkot[t]; Nicolaus de Clemangiis[u]; Petrus de Alliaco[x]; Totastus[y]; Platina in the life of Pope Marcellinus. The scandal must needs be notorious and intolerable, when so many persons of the engaged party, of the Roman church, whence all this mischief came, durst so openly complain, and wish the annulling of the law of single life to the clergy, or that the spirit of purity were given to all that minister to a pure religion, the religion of Jesus Christ. But the thing itself was its own indication: it was a black cloud, and all good men abhorred it: for things came to that pass, that the bishops' officials took annuities from all their parish-priests for licenses to keep concubines; and if they came to a continent person that told them 'he kept none,' they replied, that 'yet he must pay, because he might if he would;' as is reported by divers of their own, particularly by the 'Centum Gravamina,' and by Espencæus in 'Epist. ad Titum, cap. 1.' I end this with the words of Martinus Peresius; "Multis piis visum est, ut leges de cœlibatu tollerentur propter scandala;" "Many pious persons have thought it necessary, that the law of priests' single life should be taken away by reason of the scandals which it brings." For St. Paul[z] was so curious, even in this very instance, that when he had but commended the ease and advantages of the single life to all Christians in regard of the present necessity, and the affairs of religion under persecution, he presently claps in this caution,—I speak not this to lay a snare before you, 'sed vestro com-

[r] Lib. de Conversione ad Clericos, cap. 20.
[s] Part. 2. tit. 46.
[t] 183. Lect. in Sapient.
[u] De Corrupto Eccles. Statu.
[x] De Reformatione Eccles.
[y] Opusc. contr. Clericos Concubinar. Concil. ult.
[z] 1 Cor. vii.

modo:' If any of you find it for your ease or advantage, well and good; but, at no hand, let it be a snare.

(2.) But that which next is considerable, is, that this law is an intolerable burden. So said Paphnutius in the Nicene council; he called it ὑπερβολὴν τῆς ἀκριβείας, 'an excess of exactness:' and therefore, when some bishops would have had it made into a law, he advised the contrary; "Nolite gravare jugum ecclesiasticorum," "Lay not a load upon the ecclesiastic state; for 'marriage is honourable in all men, and the bed undefiled:'" adding, "that all cannot bear that institution of life that is void of all affections; and as he supposed, no man should be saved in his chastity, if husbands were deprived of their wives, but that such society was continence and chastity." So Gelasius Cyzicenus[a] tells the story. And though Turrain the Jesuit would fain make the world not believe it, yet he hath prevailed nothing. For it is not only related by Gelasius, but by Ruffinus[b]: by Socrates; Sozomen; by Aurelius Cassiodorus the author[c] of 'the Tripartite History,' by Suidas[d]; Nicephorus Callistus[e]; and by Gratian[f]. And the synod did obey the council. And therefore the third canon of that council cannot be understood by any learned men to be a prohibition to the clergy to marry: it forbids a bishop, a priest, or deacon, συνείσακτον γυναῖκα ἔχειν, 'to have a woman introduced,' unless she be a mother, a sister, or an aunt, that is, one of whom there can be no suspicion. "Mulierem extraneam," "A woman that is not a domestic;" so Ruffinus[g], Fulgentius Ferrandus[h], and the fourth council of Toledo[i], expound the word συνείσακτον. For, by that time, the opinion of single life had prevailed both by right and by wrong: for in the three hundred years of danger and persecution, many that were under the cross, would not entangle themselves with secular relations, but fight naked and expedite; but besides this, the Nicolaitans, and the Encratites, and the Manichees, and the Montanists, and the Gnostics, and the Priscillianists, had so disgraced marriage, and pretended such purities to be in single life, that

[a] In actis concil. Nicen. Paris. impres. cap. 3. p. 170. Acta ipsa è Vatican. Bibl. prodierunt; latinefacta sunt ab Alfonso Pisano et Rober. Balforeo Scoto.
[b] Hist. lib. 1. cap. 4.
[c] Lib. 2. cap. 14.
[d] Verb. Paphnutius.
[e] Lib. 8. cap. 19.
[f] Cap. Nicæna, dist. 31.
[g] Hist. Eccl. lib. 1. cap. 6.
[h] Cap. 122.
[i] Cap. 41.

it was very easy in that conjunction of affairs to insinuate it into the zeal and affections of some less discerning persons, who, not being content to have marriage left at liberty, as it was during the whole three hundred years, would needs have it imposed; not discerning, in the meantime, that amongst those who pretended to the purities of celibate, some would yet bring women into their houses,—so did the Hiracitæ, as Epiphanius[i] reports of them, pretending they did not marry them, but made them housekeepers: they were their 'gallants,' mere Platonics, or, as they called them, 'sisters[k];' but they would kiss and embrace tenderly, and sometimes sleep together, but still would be thought virgins; as we find in an epistle of St. Cyprian[l], where he commands such persons to be thrust from the communion of the faithful, unless they would either marry, or leave the communion of their women:—for that gloss had not yet invaded the persuasions of men, which since hath prevailed: "Sacerdos amplectens mulierem, præsumitur benedicere," "If a priest embrace a woman, it is to be presumed he only gives her a blessing." And the same St. Chrysostom[m] tells of them, in some homily he made against those, that brought in such women. They were "the companions of their single life;" so Budæus renders the word: but it was usual amongst the Christians of those ages, virgins to bring in men, and monks to bring in women: but these were condemned by the council of Nice; who yet did not prevail, but that they who might have wives or husbands, had rather have such friends and companions; which nevertheless gave infinite scandal and reproach. St. Gregory Nazianzen speaks of them with no good will or commendations at all:

> Τὰς δὲ συνεισάκτους, ὡς δὴ φάσκουσιν ἅπαντες,
> Οὐκ οἶδ' εἴτε γάμῳ δώσομεν, εἴτ' ἀγάμοις
> Θήσομεν, εἴτε μέσον τι φυλάξομεν· οὐ γὰρ ἔγωγε,
> Κἂν με λέγητε κακῶς ατ' πράγμ, ἐπαινέσομαι.

"He neither knew how to call them[n], whether married or unmarried, or between both;" but at no hand was that kind of life to be commended: but much less was it to be endured,

[i] Hæres. 67.
[k] Ἀγαπητὰς apud Epiphan. Hæres. 63.
[l] Epist. 62.
[m] Orat. 17. et orat. 18. edit. Savil.
[n] Videat lector qui velit plura de sensu hujus vocabuli et canonis, Gabrielem Vasquium in 3. disp. 247. cap. 4. et Michaelem Medinam, lib. 2. de Continentia, cap. 21. et Georgium Calixtum de Conjug. Cleric. p. 174.

that men by new laws should be crushed to death or danger under an intolerable burden. This was the sense of the Nicene council. And the same thing was affirmed by Dionysius bishop of Corinth, to Pinytus bishop of Gnossus; Μὴ βαρὺ φορτίον ἐπάναγκες τὸ περὶ ἁγνείας τοῖς ἀδελφοῖς ἐπιτιθέναι, "The heavy yoke of abstinence ought not to be imposed upon the brethren."—And of this the chancellor of Paris [o], a good man and a wise, discourses gravely. "Christ our most wise lawgiver hath left rituals or judicials to their choice, of whom he said, 'He that heareth you, heareth me;' but yet so that they should know they are set over others for edification, not for destruction: and that they should judge according to the law of God, which is the general rule for all the professors of Christian religion under Christ, who is their general abbot; not enlarging it, not restraining it, or making it harder than Christ expressed it, when he said 'his yoke is easy, and his burden is light.' For the prelates of the church have not power to bind their subjects to any thing, which is not delivered in the evangelical law professed by all Christians; they have no other authority than abbots have over their monks, who, according to the doctrine of St. Thomas, and other doctors, cannot command their monks any other thing than what they have professed in their rule." Now whether this be a burden or no, will need no inquiry, when there is not in all the laws of God so much difficulty as in this very thing; insomuch that, without a special gift of God, it is impossible. I need not, to prove this, tell the sad stories of some saints, who have fallen foully by the solicitations of their own nature; or how that youth, in which age many enter into holy orders, is a state of flames and danger; that St. Jerome [p] complains of it in his own particular, "scitis lubricum adolescentiæ iter, in quo et ego lapsus sum," he lost his glory of a virgin-body when he was young: but I consider that those persons, who have undertaken it, and had eminent graces, and were persons of rare and exemplar sanctity, yet could not preserve their virgin, without almost destroying their body. Evagrius the priest used to go into a well in a winter's night,—St. Bernard, into a lake,—to cool their burnings; St. Francis used to roll his naked body in snows; St. Omar, in nettles; St. Benedict, upon

[o] De Vita Spirit. Animæ ubi supra. [p] Epist. 43. ad Chromatium.

thorns; St. Martinian, upon burning coals, to overthrow the strongest passion by the most violent pains. And were not that law intolerable, that should command all ecclesiastics to do such things; they must do these, or worse: I speak of those, who have not the gift of continence. For to say that all men have it, or may have it, if they will labour and pray for it,—is to speak against reason and Scripture[q], and experience. It is easier to give our bodies to be burned for religion, than to live innocently in the state of perpetual burning; and supposing those saints, now enumerated, did, by these violent remedies, keep themselves from pollution,—yet it is not certain, that they took the better part, when they chose ustulation before marriage, expressly against the Apostle, who not only said, that it is better to marry than to fornicate, but, "better to marry than to burn:" and that these violences did cure their burning, is so false, that they do suppose them afflicted with burnings, and that, therefore, they were constrained to use violent remedies. For those, which men invent, are infinitely worse than that which God hath appointed: so easy it was by marriage to cure what they found scarce possible to keep from the extremest mischiefs, but not possible to do in all degrees, by mortifications. And therefore St. Jerome[r] speaking of virgins that did not do their honour to virginity by real continence, he advised them, "ut aut nubant, si se non possunt continere; aut contineant, si nolunt nubere;" "that they would contain, if they will not marry; or marry if they cannot contain:" not only if they cannot contain from outward acts of uncleanness, but even from the secret desires of it, and from burnings. "Quid enim prodest (saith he[s]) corporis pudicitia, animo constuprato?" The chastity of the body is of no profit, if the desires be burning and dishonest.

Casso saltem delectamine
Amare quod potiri non licet:

so the burning is well described in the comedy. "Uri est illegitimo coitu aut fœdis cogitationibus se polluere;" said Alfonsus Virvesius[t]; "To burn, is to pollute ourselves with unlawful mixtures, or with filthy thoughts;" and these desires

[q] 1 Cor. vii. 7. Matt. xix. 11.
[r] Ad Demetriad. Virg.
[s] In Jeremiam, lib. 2. cap. 7.
[t] Philippicâ 18.

are not to be cured by mortifications and corporal austerities. "Nella guerra d' amor, chi fuge, vince," saith the Italian proverb. There is no contesting against this passion; even to dispute against it is a temptation,—even to fast and to be hungry does enkindle the flame. "Fames et sitis exasperat et incendit animos," said Seneca; "Hunger and thirst make a man angry:" and anger and lust are fed by the same fuel.

——Mea cum defervuit ira,
Nolo prognatam consule——[w].

A spare and temperate diet gives no extraordinary maintenance to the desire, and therefore it was advised and practised in all ages: but there is enough of desire in ordinary; even that which maintains health, will keep up that natural desire; and that which destroys health, destroys chastity, and hinders us more in the service of God that it can set forward. And St. Jerome [x] says, that he had known them of both sexes, who have, by too much abstinence, turned mad, and lost their wits. They that from God's mercy have received strengths to live singly and purely, may use it as it serves best for God's glory, and the interest of their souls, and their own intermedial comforts. But it is to be considered, that it is not only a gift of God that some men can contain, but it is a peculiar gift that they will: and it is observed by wise and good men, that this desire hath or hath not respectively been inspired by the Spirit of God in several ages of the church according to their present necessities; and when God gives the gift, then every thing will help it forward. But in the present manners and circumstances of the world, as there is no public necessity of it, so there is no great care taken to acquire it; for there where the unequal laws of men have brought a necessity upon their clergy, it is with them as with those of whom Epiphanius [y] complains; "Ut ne confundantur apud homines, occulte scortantur, et, sub solitudinis aut continentiæ specie, libidinem exercent:" "They pretend purity in public, and fornicate in private."—And it is certain, that such courses are no fit means to invite the spirit of purity to invest and adorn the church. Neither is prayer a certain way of obtaining this gift, any more than of the gift of a healthful or a strong body; for God requires

[w] See Horat. S. i. 2. 70. [x] Epist. 8. [y] Lib. 6. hæres. 60.

it of none of us directly; if accidentally he does require it, he will give him wherewithal; but therefore the Apostle does not say, but "if a man does not contain, let him pray" but "let him marry." It is sufficient that God hath given a remedy, that is easy and infallible to all that love God; and it is best to use that remedy, which is best, and was by the best physician provided for all that need. "Oportet compati et commetiri doctrinam pro virium qualitate, et hujusmodi qui non possunt capere sermonem de castitate, concedere nuptias,"—said St. Cyril [a]; "Every one's strength must be measured, and so fit our doctrines to their proportions, and to grant marriages to them, who cannot receive the word of continence." And therefore what St. Austin [a] said of widows, may be exactly applied to ecclesiastics; "There are some that call them adulterous, if they marry; and so pretend themselves purer than the doctrine of the Apostle, who, if they would confess their name, 'mundanos potius se quam mundos vocarent,' 'they would prove to be servants of interest rather than of purity.' For they compel the widows [the ecclesiastics] to burnings, because they suffer them not to marry. But we are not to esteem them to be wiser than the apostle Paul, who saith, 'I had rather they should marry than burn.'"—And like to this is that of St. Jerome [b]; "Si quis consideret virginem suam, i. e. carnem suam, lascivire et ebullire in libidinem, nec refrænare se potest, duplex illi incumbit necessitas, aut capiendæ conjugis, aut ruendi," "He that considers his virgin, that is, his flesh, and observes it troublesome and boiling into desires, and cannot refrain himself, hath a double necessity upon him; either he must take a wife, or he must perish." And therefore they that pretend the gift of continence is in every man's power, should do well to give God thanks, that they find it so in their own; but yet they should also do well to believe others, who complain that they have it not. St. Bernard's [c] wish was something to the same purpose of charity and security. "Utinam qui continere non valent, perfectionem temerarie profiteri, aut cœlibatui dare nomina vererentur; sumptuosa siquidem turris est, et verbum grande, quod omnes capere possunt;" "I wish that they who cannot contain, would be afraid to pro-

[a] In Levit. lib. 15.
[b] Contra Jov. lib. 1.
[a] Lib. de Agone Christian. cap. 31.
[c] De Convers. ad Clericos, cap. 29.

less perfection, and undertake single life: for this is a costly tower, and a great word that all cannot receive." Æneas Sylvius having gotten a lady with child, to his father that was troubled at it, he replies [d], "in sua potestate non fuisse ut vir non esset," he could not help it.—And when Origen had resolved to live continently, he found no course but one would do it, even by making it impossible to be otherwise; and he was followed by many, particularly by the Valesi.—And Leontius, who was afterward chosen bishop of Antioch by the Arians, having a woman in his house, one of the συνείσακτοι, of which I spake before,—being commanded to put her away, emasculated himself that he might have leave to sleep with her: but that uncharitable folly produced a good law against it. For what chastity is that, or what service of God is it, for a man to offer to God a single life when he hath made himself naturally impotent? "It is (that I may use St. Basil's [e] expression) as if we should commend a horse for not hurting any man with horns."—But I observe it for this purpose, to represent upon what terms the gift of continence was to be obtained by some who would fain, but by this act showed plainly that they could not.

> Propterea leges quæ sunt connubia contra
> Esse malas——prudentia patrum
> Non satis advertit——quid ferre recusat,
> Quid valeat natura pati. Cervicibus (aiunt)
> Hoc insuave jugum nostris imponere Christus
> Noluit. Istud onus, quod adhuc quamplurima monstra
> Fecit, ab audaci dicunt pietate repertum [f].

And therefore those laws that command single life to so many thousands of priests, Italians, Spaniards, Frenchmen, which are none of the most continent nations of Europe, are a snare to those that cannot keep them, and a burden to them that would, and intolerable to both. So Origen [g] complains of some imperious and imprudent persons, who, in his time, would be commanding single life and virginity; "Non solum quæ docent non faciunt, sed etiam crudeliter et sine misericordia injungunt aliis majora virtute ipsorum, non habentes rationem virium uniuscujusque:" "They not only do not what they teach, but cruelly and unmercifully enjoin to

[d] Epist. 15. [e] Extrem. libro de Vera Virgin.
[f] Baptista Mantuan. in Vita Divi Hilarii. [g] In Matt. tract. 24.

other things greater than their strength, not regarding the measure of every one." For it is a burden bigger than the weight of all the laws of Jesus Christ put together, except to such persons who are eunuchs by nature, or have received a particular gift of God; of which they may make use, as they find other things concurring. For to be able to contain is one gift, and to be willing is another; and after all, that this can promote any end of religion is but accidental, and depends upon a special providence and economy of affairs. It may be useful in some times, and to some persons, and to some purposes; but of itself, it is no act of religion, no service of God: and that is the next consideration.

18. (3.) The law of celibate is an unreasonable law, and besides that it does very much mischief to souls, it does no good at all. For if single life have in it any greater purity or spirituality, than chaste marriages, yet even that single life is more acceptable when it is chosen and voluntary; and if it be involuntary and constrained, it is not pleasing to God: so that the law in this case does effect nothing but this, that they who are willing, may lose something of the reward,—or may be uncertain, whether they do or no; and they that are unwilling, are constrained either to hypocrisy, which will bring them an evil reward,—or to a burden and slavery, which shall bring them none at all. But that which I intended, is this:—

19. (4.) That all this stir is to no purpose; for virginity is not more holy than chaste marriage; and the one does not more advance religion than the other directly, but by accident, and in some circumstances, and as an instrument fitted for use in its own time. For as St. Austin[h] observes well, "St. Paul does modestly dehort from marriage, not as from an evil, but as from a burden:" neither is his advice for all times, but for that present necessity; neither is it to the clergy, but to all Christians; neither is it for religion, but for convenience; neither was it from the Lord, but from himself; nothing of the gospel or spirituality, but a matter of prudence, and the exterior conduct of affairs. For τίμιος ὁ γάμος, and κοίτη ἀμίαντος, "marriage is honourable," it is so to all; and such mixtures have in them nothing that "defiles." And he that is perfect in his constitution, if he be also so much a virgin as to have nothing that defiles, is a rare

[h] De S. Virginit. cap. 16.

person, but, it may be, not to be found; but if he be, yet he does arrive but to that state of things, in which the married man is, even when he does actually use his greatest liberty, he is *ἀμίαντος*, 'undefiled.'—Which thing if the zealots, in some of the first ages of the church, had rightly observed, they would not have been so fierce for single life upon the account of heretical principles. For they did it, because they supposed marriage to be a pollution; and if they did not expressly condemn it upon that stock, yet they secretly suspected it, as not being confident of the truth of the Apostle's words, but suffering themselves to be a little abused by heretical sermons, though they did not openly join in their communions and professions. The council of Gangra notes such persons as these, that refused the communion from the hands of a married priest; but in the fourth chapter pronounces anathema against them: and St. Ignatius[1] says, that "they who call the society of married pairs 'corruption,' and 'pollution,' have the devil, that great apostate, dwelling in them." For what state of life can be purer than that which is undefiled? and from whence shall we take the measures of purity, but from the fountains of our Saviour, from the Holy Scriptures, the springs of salvation? but to this the first ages of the church gave apparent witness. "Perfecti Christiani edunt, bibunt, contrahunt matrimonium," said Clemens Alexandrinus[k]; "Perfect Christians eat, and drink, and make marriages:" and therefore the *τελείωσις ἱερατική*, 'the perfect state of orders' is not at all impugned or diminished by marriage. Sozomen[l] tells of Bishop Spiridion, *ἐγένετο γὰρ οὗτος ἄγροικος, γαμετὴν καὶ παίδας ἔχων, ἀλλ' οὐ παρὰ τοῦτο τὰ θεῖα χείρων*, "he was a plain man: he had a wife and children, but not at all the worse, not at all hindered in divine things."—The same also is said of Gregory[m], bishop of Nazianzum, the father of St. Gregory the divine; and St. Basil: "Etsi matrimonio se vinxit, ita tamen in eo vixit ut nihil propterea ad perfectam virtutem ac philosophiam consequendam impediretur:" "He comported himself so in the state of marriage, that he was not at all hindered for obtaining the perfection of virtue and Christian philosophy." And indeed what should hinder him? for

[1] Ad Philadelph.
[l] Lib. 1. cap. 11.
[k] Lib. 7. Strom.
[m] Greg. Naz. verba ex transl. Volaterrani.

marriage does not. "Matrimonium[n] non solum nihil nobis obstat ad philosophandum Deo, si voluerimus esse sobrii, sed et magnam adfert consolationem: comprimit enim insanum naturæ impetum, nec turbari sinit quasi mare, sed efficit ut scapha feliciter in portum appellet: et ideo Deus consolationem hanc tribuit humano generi;" "For if men will be sober, marriage is not only no hinderance to Christian philosophy, but also brings great aids and comfort: for it represses the mad violences of nature, and causes that we be not troubled like the enraged sea, but makes the vessel arrive safely to her port; and therefore God hath given this comfort to mankind."

20. For although it be true that, as St. Paul[o] says, "the married cares for the things of the world, the unmarried for the things of the Lord;" he, how he may please his wife,—this, how he may be holy both in body and spirit;—yet this is so far from disparaging holy marriage, or making it less consistent with the dignity and offices ecclesiastical, that in the world there is not a greater argument to the contrary. For consider where every one's trouble, and where his danger, lies. The married hath more necessities and more affairs in the world, and relations to look after: which if he well provides for according to his power, he hath indeed suffered some secular trouble; but he hath done his duty, and he is safe. But the unmarried are alone, and without those relations; and therefore they may, if they will, let the things of the world alone, and mind the present employment; which then was the ministries and attendances evangelical. But though they have less care of the things of this world; yet their care, which lies in another scene, is a good care indeed, but it is very great and tender, and hath in it very great danger.

——pœneque graves in cœlibe vitæ[p].

The unmarried takes care, how she may be holy or clean in body and spirit. And this is a care not only of greater concernment than that of secular supplies, but, to most persons, of extreme difficulty and danger. For it is to no purpose to be unmarried, unless they remain 'pure in body and in spirit,'

[n] S. Chrysost. hom. 21. in Gen.
[o] 1 Cor. vii. 34.
[p] Auson. Idyl. xv. Delphin. pag. 388.

that is, be free from carnal desires as well as unclean actions; and how great a care is required to this, I need not say, because all men that have tried it, know. But this care the married need not know any thing of; for they have by God a remedy provided for them, and they are in the holy state of marriage, without that care, holy both in body and mind; so that it is easy to say where the advantage lies. The one takes care to avoid want,—the other, to avoid damnation: the one hath troubles of this world; the other, hath dangers of the other. The hardest province, which the married man hath, is how to please his wife; but his affairs are so well ordered, that he hath not such difficulties to please God as the other hath. Which thing was long since observed by St. Gregory Nazianzen[q], that "indeed single life is higher and better (if it be pure and undefiled), but it is more difficult, and more dangerous; and marriage, which looks not so splendidly, is yet much more safe." But this comparison is true between persons married, and the unmarried that have the gift of continence; for even that gift does not exempt them from great dangers and great labours. But if there be any burning, if there be a fire within, it is ill dwelling in the house where there is no chimney; for that the smoke will fill every corner of the dwelling, and at least make a perpetual trouble. But between the married, and the unmarried that hath not the gift of continence, which is far the greatest part of mankind, there is no comparison at all. And therefore, though in respect to that conjunction of affairs, to the beginnings of a persecuted religion, in which many of them were to live an ambulatory life, and suffer the spoiling of their goods, and be thrust out of their houses, the Apostle had great reason to take care, lest, by the greatness and superfetations of trouble, they should be tempted to forsake, and be vexed out of their religion:—yet, abstracting from that consideration, the married estate is much more secure for the state of souls, "et propter eam, quæ in nuptiis est, animi tranquillitatem," as St. Gregory Nazianzen[r] affirms, "and for that peace of mind which is in chaste marriages," and is not in the state of single life with them, who are perpetually fighting with a dangerous enemy, who is not always resisted, and if he be, is not always put to the worst. And therefore

[q] In Fun. Georg. [r] Ibid.

it was rightly observed of St. Clemens Alexander[s], "As single life, or continence, so marriage also hath proper gifts and ministries, which pertain unto the Lord." But at no hand ought it to be admitted, that marriage does hinder the service of the Lord; it sets it forward very much, but hinders nothing: it may be burdensome to those who are to travel and pass from country to country; but to them who fix in a place, and who attend the ministries of one people, it is no hinderance. And then to the direct service of God in our personal piety and spiritual safety, it is a very great advantage; concerning which, who please, may read St. Gregory concerning his mother Nonna, and the epistles of Paulinus[t] concerning Amanda the wife of Aper, who were to their husbands admirable advantages, both in the affairs of the world and of religion. "Sanctissimus Samuel filios genuit: non tamen justitiæ suæ merita minuit. Zacharias sacerdos vir justus in senectute sua genuit filium. Qua ergo ratione accusatur, quod minime obesse probatur?" so St. Austin.—To which add the instance of St. Chrysostom[u] upon those words of Isaiah, "I saw the Lord:" "Quis ista loquitur? Isaias ille spectator cœlestium seraphim, qui cum conjuge commercium habuit, nec tamen extinxit gratiam:" "Samuel the most holy prophet, and Zachary that just priest, and Isaiah that seer, who saw the celestial seraphim, were not hindered from their greatest graces, favours, and perfections, by the state and offices of marriage." The event of this consideration I represent in the words of the same excellent doctor[x]; "Quamvis nuptiæ plurimum difficultatis in se habeant, ita tamen assumi possunt ut perfectiori vitæ impedimento non sint:" "Though marriage have in it very much difficulty (in respect of domestic cares), yet it may be so undertaken, that it may be no impediment to a life of perfection."—For even, in respect of secular cares and intrigues of business, the single life, which seems in this to have advantage, is not always found so innocent and disentangled; and yet sometimes even in this very regard, a married man hath, or may have, advantages, and ease, and liberty. "Videmus virgines de seculo cogitare, et matrimonio junctos Dominicis studere operibus," said St. Ambrose[y]; "Men of single lives take

[s] Stromat. 3. [t] Inter epist. Augustini. epist. 27. et 29.
[u] Quæst. Vet. et Nov. Test. qu. 127. [x] In 1 Ep. Tim. hom. 10. [y] In 1 Cor. vii.

care for the world; and we see them that are married, study the works of the Lord." And if it were otherwise, yet a law to command single life were very imprudent; unless they would secure, that they who have no wives, shall have no children. But as Lipsius [a] said of the Roman senate, who forbade their soldiers to marry, "A Junone arcebant eos, non à Venere, Romanæ leges;" "The Roman laws forbade Juno to them, not Venus;" for "contubernii militibus semper jus," "the soldiers always might have women," but no wives. So it is amongst the Roman prelates too much: but unless this also were so denied them, that they could have no children, or that they who have no children, shall not be solicitous to raise a poor family, or to increase a great,—the law were very unreasonable as to this very pretence. For that things are otherwise there, where single life is enjoined, is too apparent, and it is complained of by Alvarus Pelagius [a] three hundred years ago, and by Platina [b] and Bonaventure [c], and it is notorious in all the popes; divers particulars of which, in the instance of Sixtus V. are to be seen in the excellent Thuanus [d]. I end this consideration with the excellent words of Salvian [e]: "Novum prorsus est conversionis genus: licita non faciunt, illicita committunt. Temperant à conjugio, et non temperant a rapina. Quid agis, stulta persuasio? peccata interdixit Deus, non matrimonia:" "This is a new and a strange kind of conversion. They will not do lawful things, but they commit unlawful: they abstain from marriage, but not from rapine. O ye fools, why are ye so persuaded? God hath forbidden sins, not marriages."

21. Although these considerations are a sufficient explication of this instance of the rule, and verify the first intention, that single life ought not, by a law, to be enjoined to any one order of men;—yet, because the instance is of great concernment beyond the limits of this rule, I add, that the apostles and the first ages of the church not only forbade, that the clergy should put away their wives, but left it indifferent for any man, or any order of men, to marry; and therefore that it ought not now to be done by the present guides of churches, who have less reason so to do; and if they had a

[a] Ad 14. annal. n. 74.
[b] In Johan. 16.
[d] Hist. lib. 100.
[a] Lib. de Planctu Eccles. 2. art. 15. A. D. 1330.
[c] 4 Dist. 27. art. 1. q. 3.
[e] Lib. 5. de Provident. Dei.

greater reason, yet they have a less authority. But Christ and his apostles left it free. Of this, besides the matter and evidence of fact, there being no law of Christ or canon of the apostles to restrain it, but a plain supposition of liberty, and intimation of the thing done in the Epistles to Timothy and Titus, there needs no other testimony but that of Gratian[f]: "Copula sacerdotalis, vel consanguineorum, nec legali, nec evangelica, nec apostolica auctoritate, prohibetur;" "Neither the Old Testament nor the New, neither Christ nor his apostles, have forbidden the marriage of priests." To which agrees that of Panormitan[g]; "Continentia non est de substantia ordinis, nec de jure divino;" "To contain from marriage is not of divine appointment, nor necessary to them that are in holy orders." The same also is affirmed by Antonius, as who please may see 'in Summa,' part. 3. tit. 1. cap. 21.

22. Now then nothing remains to be considered but the practice of the church, which how far it can oblige, I have already discoursed: but suppose it might in other cases, yet for the reasons, above described, it ought to be altered in this; for if such a law may not bind, much less can the practice; and yet if the practice might, here was no Catholic practice. For as for the whole Greek church, the practice of that is drawn into a compendium by Pope Stephen[h]: "Aliter se orientalium traditio habet ecclesiarum, aliter hujus sanctæ Romana ecclesiæ; nam illarum sacerdotes, diaconi et subdiaconi, matrimonio copulantur:" "The tradition of the eastern churches is otherwise than that of the Roman church: for their priests and deacons and subdeacons are joined in marriage." I shall therefore add no more to this confession but the canon of the council of Ancyra[i], which orders, that if deacons, in their ordination, will profess that they cannot contain, and that they intend to marry, they may.—But if then they profess otherwise, and do against their profession, they must cease from their ministry. And the practice is to this day, that the Greek and all the eastern priests are, if they please, married men, and most of them actually so: though in the eastern churches, they always did exhort their clergy to continence, yet they left it to their liberty, and they always took it.

[f] 26. qu. 2. cap. Sors.
[g] De Cleric. Conjug. cum olim.
[h] Distinct. 31. cap. Aliter.
[i] Dist. 28. cap. 8.

23. In the Latin church, from the time of Pope Siricius, and the second council of Arles, which Binius makes about the same time, at the end of the fourth age after Christ, there were some canons provincial enjoining single life to the clergy; but the practice was ever against the canon: and as for the first four hundred years or thereabouts, all had liberty to be married, if they pleased; so even afterward they would take it, as they saw cause. This we find in St. Jerome, who to Jovinian, objecting the marriage of Samuel, answers, that this was no prejudice to the honour of the virgin state, "quasi non hodie quoque plurimi sacerdotes habeant matrimonia, et apostolus describat episcopum unius uxoris virum;" "for the Apostle describes a bishop the husband of one wife; and even at this day, most priests are married."—St. Jerome did not contend, that all priests ought to be virgins; but that if they that could contain, would, it were much better. But by this, the matter of fact against the law was evident. St. Ambrose[k] tells, that, in most remote or private churches, the priests did use marriage: "In plerisque abditioribus locis, cum ministerium gererent vel etiam sacerdotium, filios susceperunt." The clerical marriages were, in his time, almost universal: and therefore many endeavoured to persuade single life as much as they could, and from arguments they came to affirmations, and so to laws by little and little; but did not prevail. For when Peter Damiano was sent from Rome into France to persuade the priests to put away their wives, they defended themselves with the canon of the council of Tribur in Germany, and with the words[l] of St. Paul, "To avoid fornication, let every man have his wife;" to which the Legate[m] knew not what to answer. And when, in the year 1074, Pope Gregory VII. sent fierce letters to Germany about the same affair,—the archbishop of Mentz[n], to whose conduct the business was committed, did publish the letters, but durst not verify them; and neither, by fair means nor by foul, could cause the priests to put away their wives. And in England till the year 1100, it was not prohibited to the clergy to marry, saith Henry of Huntingdon; but then Anselm endeavoured to put the pope's letters in execution; and twenty-five years

[k] De Offic. lib. 1. cap. ult.
[l] 1 Cor. vii. 2.
[m] Baron. A. D. 1059 et 1065.
[n] Apud Baron. A. D. 1075.

after, the Cardinal of Crema [o] was sent over to the same purpose; but because he was taken in bed with a harlot, he got nothing but shame and money, and so went away. But at last, after the attempts [p] and pressures and tyranny and arts of a hundred and thirty years' continuance (for it began in 970, and was not finished till Anno Domini 1100, as [q] Polydore Virgil computes it), the clergy were driven from their chaste marriages, and they took themselves to concubines, whom they could change or multiply, and they found themselves undisturbed in that; and so they rested, till God, being long provoked by their impurest services, awakened Christian princes and priests into liberty and holiness and reformation. For amongst the Canons which are called Apostolical, the sixth severely forbids the bishops or priests upon pretence of religion to put away their wives; according to the words of Christ, "What God hath joined, let no man put asunder;" and the words of the Apostle, "Defraud not one another, unless it be by consent, and for a time." And therefore the church of Rome, which makes orders to dissolve marriage, and commands priests, which were before married, to depart from their wives,—speaks and does against the practice of the ancient churches, and against the decrees of councils, and the Canons of the Apostles, and the express laws of Jesus Christ. I end this with the saying of those in Mantuan.

> Tutius esse volunt, qua lex divina sinebat,
> Isse via, veterumque sequi vestigia patrum,
> Quorum vita fuit melior cum conjuge, quam nunc
> Nostra sit, exclusis thalamis et conjugis usu:

"The old primitives and holy bishops and priests in the first ages lived better with their wives, than now-a-days they do without them; and therefore it were better to tread in their footsteps, and to walk in that way, to which we are pointed by the law of God."

24. One thing I am to add, which is of material consideration. For every one observes in the story of the church, that even then, when they did permit the bishops and priests

[o] Matt. Paris Hist. Anglor. A. D. 1125.

[p] "O bone Calixte, nunc omnis clerus odit te:—Nam olim presbyteri solent uxoribus uti:—Id prævertisti quondam, cum papa fuisti:—Ergo tibi festum nunquam celebrabit honestum." Sic non nimis facunde, sed vere nimis questus est olim non nemo.

[q] Lib. 6. Hist. Angl. A. D. 970. Vide 27. q. 1. cap. ut lex. et Clem. cap. literas de filiis presbyter. et Innocent. cap. ut clericorum. de vita et honestate cleric.

to live with their wives and to get children, yet the church did even then forbid bishops or priests to marry after their ordination; and therefore many suppose, that we might at least comply so far with the Catholic church, according as it is set down in the Constitutions Apostolical attributed to St. Clement[r]; "non licere autem iis, si post ordinationem sine uxore fuerint, ad nuptias transire: vel si uxores habuerint, cum aliis conjungi;" "but they must be content with her, whom they had at the time of their ordination; but, after orders, they must not marry:" and Paphnutius in the Nicene council, said, that 'they did not do it, and left it as supposed that it ought not.' Of this, I do not know any one, that has given a reason, or considered it apart to any purpose; and therefore it will not be useless or unpleasant, if I give a short account of it.

25. Therefore the primitive church chose her priests and bishops commonly of great age, of known virtue and holiness. They were designed to a public and dangerous employment, for some whole ages they were under persecution, and the way of the cross was a great deletory to flesh and blood; and therefore they might the rather require it of them, whom in these dispositions they found fit to be taken into an employment, which would require a whole man, all his time and all his affections. Now if we consider, that the married priests and bishops were commanded to retain their wives, and the unmarried had been tried to be of a known and experienced continence, they might, with much reason and great advantages, require that they should so remain; that is, they might ask their consent, and might trust their promise: for here was liberty, and but little danger. The priests were few, and the unmarried much fewer, and their age commonly such as was past danger, and the public affairs of the church required it, and the men were willing; and then all was right.

26. The Greek church, and generally the churches of the east, did, by custom and tradition, oblige their priests to single life, if in that state they were ordained; because they took care, that, if they could not contain, they should take a wife before their orders, immediately if they pleased, and then enter into the priesthood; as appears frequently in

[r] Lib. 6. Const. Apost. cap. 17.

the Greek laws and canons, and particularly in the third novel constitution of the emperor Leo VI. So that this was but a circumstance of law, introduced for that which they apprehended to be decent: and in matters of decency, opinion is the only measure. But if they might marry immediately before their ordination, and live with their wives,—then it is evident they did not believe, that either the offices or the state of marriage were against the offices and state of priesthood. And this is affirmed by Cajetan[1]: "Nec ordo in quantum ordo, nec ordo in quantum sacer, est impeditivus matrimonii;" "Neither the order nor the appendant holiness," that is, neither the office nor its decency, "is impeded by holy marriages." And therefore he adds "that it can never be proved by reason or by authority, that if a priest does contract marriage, he does absolutely sin; because the priesthood does not dissolve the marriage, whether contracted after or before;" "stando tantum in iis quæ habemus à Christo et apostolis," that is, "if we keep ourselves within the limits of Christ's commandments, and the doctrine apostolical." And that is well enough; for if any church or all churches did otherwise, the custom was not good, for many reasons: it did dishonour to marriage; it made it to be secretly suspected of some uncleanness; it gave too much countenance to heretics, who disparaged it; it made a snare to those, who promised continence and found it difficult or impossible; and at last it came to an intolerable mischief in the church of Rome, it brought in divorces, which God hates, for they teach that orders do dissolve marriage, and that, which Christ permitted only in the case of adultery, they command in the case of ordination.

27. But because there are some persuasions that will not be moved, unless they be shown some precedents and practices of the primitive church, and will always suspect it to be ill for the superior clergy to marry after ordination, unless you can tell them that some good men did so before them, for they rely more upon example than upon rule;—therefore I shall represent, that, although the ancient canons and practices did generally enjoin their clergy not to marry after orders (before orders they might), yet this thing did not prevail, but deacons, priests, and bishops, good men and or-

[1] In quodlib. contr. Lutherum.

derly, did, after ordination, use their liberty, as they found it necessary or expedient. This I have already remarked in the case of deacons, who are permitted by the council of Ancyra[t] to marry after ordination, if, at their ordination, they will not profess continence. But bishops and priests did so too: which is plainly gathered from those words of St. Athanasius to Dracontius, who refused to be made bishop because he impertinently thought it was not so spiritual a state as that of monks, since he saw the bishops married men and full of secular affairs: St. Athanasius answered him, that he might be bishop for all that, and keep on his way as he was before: for if that did hinder him, he let him know, that all bishops did not enter into the married estate, nor all monks abstain: "multi quoque ex episcopis matrimonia non inierunt; monachi contrà liberorum patres facti sunt;" "many bishops did not contract marriages."—Now if none did, his answer to Dracontius had been more full, and would not have been omitted; but therefore it is manifest, that, in his time, some did. But Cassiodore[u] gives an instance in a bishop and martyr that took a wife but a little before his martyrdom, Eupsychius of Cæsarea in Cappadocia. "In illo tempore ferunt martyrio vitam finivisse Eupsychium Cæsariensem, ducta nuper uxore, cum adhuc quasi sponsus esse videretur." He was first a priest in Cæsarea, but afterward he was a bishop; and so he is called by St. Athanasius[x], who mentions Sylvester and Protogenes bishops of Dacia, and Leontius and Eupsychius bishops of Cappadocia, of which Cæsarea was the metropolis. "This Eupsychius, having newly married a wife,—while he was yet but as it were a bridegroom, gave up his life in martyrdom for Christ."—But this was no news in the Greek church; for Pope Stephen having affirmed that 'the Greek priests, deacons, and subdeacons, are joined in marriage,' the gloss[y] says, "multi ex hac litera dixerunt quod orientales possunt contrahere in sacris ordinibus;" "many from these words have affirmed, that the easterlings can marry in holy orders."—And it is also added by the gloss upon the same distinction, that "the Greeks, in their ordinations, do promise continence neither explicitly nor tacitly:" and if that be true, there is no peradventure, but very many of them

[t] Cap. 10.
[u] Tripart. Hist. lib. 6. cap. 14.
[x] Orat. contr. Arianos.
[y] Dist. 31. cap. Aliter.

marry after their consecrations. But because the Latin lawyers and canonists are none of the best historians, we may better inform ourselves in this particular from the Greeks themselves: amongst whom we find, that, for almost two hundred years together after the synod in Trullo, the Greek priests had, after their ordination, two years' time for probation, whether they could bear the yoke of single life: and, if they could not, they had leave to marry. For although the canons in Trullo had permitted them only to stay with the wives they had married before orders, and commanded, that they should take none after;—yet the canon prevailed not; but the contrary custom, of two years' probation, lasted till the time of the emperor Leo VI., as appears in this third novel constitution before cited. The words are these; "Consuetudo quæ in præsenti obtinet, iis, quibus matrimonio conjungi in animo est, concedit, ut antequam uxorem duxerint, sacerdotes fieri possint, et deinde biennium ad perficiendam voluntatem jungi matrimonio volenti præstituit." They took their orders first, and then had two years' time to consider, whether they would marry or no. Now this being the custom of the whole Greek church, in which the bishops, because of the ordinations, were engaged, it is evident it was not illegal or irregular, but an approved custom of the church; though, before the end of two hundred years after the synod in Trullo, it was decreed against by an imperial law. What became of it afterward, I have had no opportunity to inquire; but I find contrary relations by several persons. That which I most rely upon, is the relation of Erasmus, who, in his Apology against the Parisians, says, that 'in Venice he saw a Greek priest marry a wife:' and in the History of Johannes Magnus I find these words, "Wilhelmi Cardinalis prima cura et intentio fuit revocare Suecos et Gothos à schismate Græcorum, in quod presbyteri et sacerdotes, ductis publice uxoribus, consensisse videbantur;" "Cardinal William endeavoured to recover the Swedes and Goths from the schism of the Greeks, to which they seemed to adhere, when their priests and bishops did marry wives publicly." By which it appears the Greeks did so, since the others by so doing complied with them. And the Metropolitan of Russia, in Sigismundus Baro, calls it 'a great error and sin in the Roman church, that they reject the priests, who marry wives accord-

ing to the laws.' But the matter is not great; for the church might do, what they saw cause for.

28. But, in the Latin church, it will be harder to find examples of priests marrying after orders. Not but that there were very many, that did; but that they durst not be known to do it. But yet some notices we have even of this also. For Pope Innocentius II. observed, that 'every where bishops, and priests, and the religious professed, did marry wives, after they have purposed the contrary,' and by a decretal[a] restrains it. And Ivo, bishop of Chartres, tells[a] of a prelate, that had two harlots; but (as it should seem) being weary of that life, he prepared matrimonial tables for a third: and he tells[b] also of a canon, in the church at Paris, who did actually contract marriage; and the bishop held it rate and firm, that it was good and could not be dissolved: and we find that Æneas Sylvius being consulted by a priest that was in the snare, he advised[c] him actually to take a wife and marry. For what should hinder? The law of the church was an evil law, made by an authority violent and usurped, insufficient as to that charge; it was not a law of God,—it was against the rights and against the necessities of nature,—it was unnatural and unreasonable,—it was not for edification of the church,—it was no advantage to spiritual life: it is a law, that is therefore against public honesty, because it did openly and secretly introduce dishonesty;—it had nothing of the requisites of a good law,—no consideration of human frailty nor of human comforts,—it was neither necessary nor profitable nor innocent,—neither fitted to time nor place nor person: it was not accepted by them, that could not bear it; it was complained of by them, that could; it was never admitted in the east; it was fought against and declaimed and railed at in the west; and, at last, is laid aside in the churches, especially of the north, as the most intolerable and most unreasonable tyranny in the world; for it was not to be endured, that, upon the pretence of an unseasonable perfection, so much impurity should be brought into the church, and so many souls thrust down to hell. And therefore when the Latin priests saw themselves so horribly ensnared, they did secretly corrode the net, which openly they durst not tear in pieces. And the case

[a] 17. q. 1. cap. ut lex.
[b] Epist. 201.
[a] Epist. 200.
[c] Epist. 321. ad Johan. Fontem.

is clear. Dominicus à Soto observing[d] that the church did not, for a long time, permit priests to marry after orders, argues thus: "The church admitted married men to be priests, but did not admit priests to be married men, meaning, afterward: which thing, saith he, relies upon no other reason but this,—because they supposed the use of the marriage-bed to be inconsistent with the office and dignity of a priest or bishop. For if they who were bishops and priests, might use marriage, what hinders them but they might, after orders, enter upon marriage?"—That is his argument. To which I reply, that it is true, the church, which was 'æmula continentiæ,' 'desirous to promote continence,' did set it forward, where she thought she might with safety; and therefore, enjoined[e] her priests, which anciently could not be ordained till they were almost forty years of age, to remain in that state in which their ordination found them: though even this was a snare also, and could not be observed, and was not, as I have proved; yet this was not, because they disapproved the conjugal society; for besides that the Scripture gives it a title of honour, and calls it 'purity,'—it was also declared to be 'chastity' in the Nicene council, who did therefore leave married priests and bishops to the use of it: and they, who spake against the use of marriage in priests and refused to pray with married priests, were anathematized in the council of Gangra. And it is evident that those, who were admitted in the state of marriage to holy orders, did παιδοποιεῖν, 'beget children.' St. Gregory[f] the Divine tells it of his father Gregory Nazianzen.

Πατήρ σε λίσσεθ', υἱέων ὦ φίλτατε,
Πατὴρ ὁ πρεσβὺς τὸν νέον·
Οὔπω τοσοῦτον ἐκμεμέτρηκας βίον,
Ὅσος διῆλθε θυσιῶν ἐμοὶ χρόνος·

That he said 'he had been in holy orders longer than the age of his son;' and yet he had also a younger son than this Gregory; for Cæsarius was his younger brother. Baronius contends fiercely against this instance to convince the son of a poetical fiction, or an hyperbole, or some other civil word for a lie. But let it be as it was; yet the thing itself was infinitely evident; for, as Fabianus said, "Bishops and priests

[d] Lib. 7. de Just. et jure, q. 6. art. 2. [e] Justinian. nov. 123. cap. 13.
[f] Carm. de sua vita.

did, for a thousand years together in the church, live with their wives, 'nulla lege prohibente,' 'no law forbidding it,'" that is, no law in force; and the council of Constantinople decreed [g], "Si quis præsumpserit contra Apostolicos Canones aliquos presbyterorum et diaconorum privare à contactu et communione legalis uxoris suæ, deponatur:" "It is against the Canons Apostolical to forbid a priest or deacon the contact and society of his lawful wife; and he that shall presume to do it, let him be deposed."—Now then the argument of Dominicus à Soto is very good. If bishops and priests might use marriage, what hinders them from contracting marriage? There is no indecency in the thing, therefore no inconsistency with orders. Since therefore it is certain, that the married bishops and priests, not only in the Greek church, but even in the Latin, in Germany, in France, in England, where they kept their wives in despite of the pope for a long time,—did retain the liberties and societies of marriage; there can be nothing in the thing, that can make it unfit for them to contract marriages, to whom it is fit to use them.

29. There is but one thing more, which I think fit to be considered in this affair,—and that is, that there is a pretence of a vow of continence annexed to holy orders; and that therefore it is not lawful for bishops and priests to marry, when they have vowed the contrary. This indeed concerns them, who have made such a vow; but not them that have not. But who made it necessary, that persons, to be ordained, should make such a vow? even they only, that made laws against the clergy's marriage: and because they durst not trust the laws which they made, they took order that men should become a law unto themselves, that they might be ensnared to purpose. This vow was only introduced in the Latin church [h], and enjoined to all her clergy: enjoined, I say, against the nature of a vow; which, if it be not voluntary, is no vow; which includes desire in its very name and nature. But orders do not include this vow in their nature, and it were intolerable that men should be forced from their wives against both their wills: that is a persecution, not an ordination; and it is so far from being for the advantage of

[g] Habetur 1. dist. 3. cap. Quoniam.

[h] Alexand. III. cap. Sanè de Cler. Conjug. Vide Cajetan, opus. tom. 1. tract. 27.

the church, that it is expressly against a commandment of God, that 'what he hath joined, any man should separate:' and yet we find many, in the primitive churches, by force made priests and bishops against their wills. St. Austin was taken at Tagoast, and made priest whether he would or no, but he was not married: but another good man was,—Pinianus, the husband of Melania, was ordained against his will and the tears of his wife. Paulinianus, the brother of St. Jerome, was first made deacon by Epiphanius, and then made priest, and they were forced to stop his mouth, that he might not deny it. And can it be thought, that these men did, in this violence, make a vow of single life? or can these be fitting circumstances for a vow? But I shall not insist upon the particulars of this: because if they should make such a vow, yet if they found it to be a snare, and impossible to be kept, they had not only leave, but a necessity, to break it. If the vow was constrained and proved impossible, it was the less sin in the taking, and none in the breach of it. But if it was voluntary, it was rash, unless they had been sure the thing had been in their power; and then if it proves not to be so, the fault is not in the breach but in the undertaking. "Quod si perseverare nolunt vel non possunt, melius est ut nubant, quam ut in ignem deliciis suis cadant; certe nullum fratribus aut sororibus scandalum faciant:" so St. Cyprian[i] advises the professed virgins; "If they will not, or cannot persevere,—it is better that they marry, than fall into the fire and into burning; only let them give no scandal;"—meaning, by their unchaste lives. And Epiphanius[k] expressly; "Melius est lapsum à cursu palam sibi uxorem accipere secundum leges;" If a man have undertaken a load too heavy, and falls with it, it is better to lay it aside, and openly to take a wife. The same counsel is given by St. Jerome[l], by St. Austin[m], and by Alfonsus Virvisius[n], a divine of the Roman church. To which I shall add nothing of my own but this,—that if the holy vow of marriage, appointed and confirmed and accepted by God, may yet be dispensed with and annulled, much more may the vow of virginity and single life. If the adultery of the wife makes the husband's

[i] Lib. 1. ep. 11.
[k] Hæres. 60. et 61.
[l] Epist. ad Demetrian.
[m] Lib. de Bono Conjugal.
[n] Habetur. dist. 27. cap. Quidam.

vow and promise to be void; much more may his own adultery or fornication make void his vow of single life. If, for the dishonour of his house, and the introduction of bastards into his temporal possessions, he is absolved from his vows of wedlock, which God certainly did approve and appoint; much more may his vow be null, when there is danger or ruin to his soul. A man may lawfully live with an adulterous wife; and yet he may choose, and his vow does not oblige him: but he cannot safely live with burnings, he cannot lawfully abide in fornication and uncleanness. For, "Who can dwell with everlasting burnings?"—

30. It were not unreasonable to consider the ecclesiastical law against the second marriages of priests, or the ordaining them, who have married the second time. But this also,—relying upon the humour of men, who will be more pure than God, and more righteous than the law of Christ, and more wise than the Apostle,—it may be determined by the same considerations. The law is a snare; it is in an incompetent matter; it is a restraint of that liberty which Christ hath left; it cannot be fitted to time and place, and yet remain a law; because there are so many necessities to be served, and so many favourable cases to be considered, that the exceptions may be more than the rule. It may also be considered that to make second marriages a cause of irregularity, or incapacity of receiving holy orders, is nothing but a secret accusation and an open reproach to marriage; that it was not of use and avail in the primitive church,—Tertullian [o] witnessing, "apud vos digami ubique præsident," "in the Catholic church, bishops, twice married, do every where govern;" that Cauterius, a Spanish bishop, was twice married; that St. Jerome [p] affirms that all the world was full of such ordinations, not only of deacons and priests, but of bishops; and that he could reckon so many, as would excel the number of bishops convened in the council of Ariminum; that St. Austin had fornicated with two several women, and yet he was made priest and bishop, for all that; and to deny that to holy marriages, which is not denied to unholy fornications, will be a doctrine unfit for the honour of Christian [q] schools; that the

[o] De Monogam. [p] Epist. ad Ocean.

[q] Glossa in dist. 34. can. Fraternitas hanc rem exhorruit. Ecce casus, ubi plus juris habet luxuria quam castitas: quia castus repelleretur, si contraxisset cum secunda; sed fornicator non. Vide etiam S. Aug. epist. 64. In locum apost. 1 Tim. iii.

second marriage is as holy as the first: that it may be as necessary and as useful; that it is always as lawful; that the canon of the Apostle, that "a bishop should be the husband of one wife," is intended against plurality of wives at once, and marrying after divorces, both which were usual amongst the Jews and Greeks and Romans, and could not at first be taken away from the new-converted Christians; that it was so expounded by St. Chrysostom, Theodoret[r], St. Jerome, and divers others, but especially by the Greek fathers; that not only the first marriages are blessed by God, but the second and third, as St. Austin observes; that St. Clemens of Alexandria affirmed, that διγαμία μετὰ ἐπαγγελίαν παράνομον οὐ διὰ τὴν συνάφειαν, ἀλλὰ διὰ τὸ ψεῦδος, "digamy, after a vow to the contrary, is an irregularity, not for the contract and conjunction, but for the lie;" that the church of Rome does, without scruple, frequently ordain them, that have been twice married, if they will pay the price appointed in the chancery-tax, as is witnessed by one that knew very well; that if the Apostle had forbidden it by a canon, yet that canon did no more oblige the descending ages of the church than the other canons which we see broken in every church, according to their reason or their liberty; that in the primitive church they were not very solicitous about the affairs of marriage, because they supposed 'the end of all things was at hand:' "'Crescite et multiplicamini' evacuavit extremitas temporis[s];" that it was a blot in the face of the primitive church, that they would not bless second marriages; that it was most rationally and elegantly complained of by St. Bernard[t]; that second marriages are not a sign of incontinence but the cure, or if they were a sign of an incontinent body, they are a sure sign of a continent mind, that will, at no hand, admit any uncleanness; that a great liberty permitted is infinitely to be preferred before a little prevarication of a divine law, and therefore that second marriages are to be permitted to the clergy, rather than evil thoughts, or the circles of an inward fire; that the prohibition of the ordination of persons, after the second marriages, did rely upon the opinions of holiness, that was in the ecclesiastical order above the lay purity, and the unholiness of mar-

[r] Ad Ocean. tom. 2. lib. 3. cap. 2. Spalat. lib. 2. cap. 10. n. 75.
[s] Tertull. ubi suprá. [t] Serm. 66. in Cantica.

riage in respect of single life; that in whatsoever sense the former can be true, yet the latter is a branch of Montanism, and a product of the heresy of Tatianus; that Theodoret did ordain Irenæus, that was twice married; that he defends the fact by the consent and suffrages of the bishops of Phœnicia, and says that he insisted in the footsteps of his ancestors, and produces for his precedent, Alexander of Constantinople, Acacius of Berea, and Praylus of Cæsarea, who ordained Domnus after his second marriage; that the chief of the diocess of Pontus did so, and all the bishops of Palestine; that they accounted it holy according to the opinion and doctrine of their nation, for so we read in Maimonides [u]: "Although a man have fulfilled the precept concerning the multiplication of mankind, yet nevertheless it is prescribed in the sayings of the scribes, that no man should cease from the multiplication of his kind, so long as he can well continue it; for whosoever shall add a soul to Israel, is like him that buildeth up the world. And it is moreover in the sayings of the wise men, that a man should not keep a house without a wife, lest he be provoked by lust." It may also be considered that he that burns, had better marry, though he hath been already married, and though he be a bishop; that the virgin or widow estate is no where commanded, but that in some cases marriage is, as in that of burning; that, in Scripture, no chastity or continence is required of a bishop but the matrimonial; that Abraham the father of the faithful was married again after the death of Sarah; that Saint Joseph, the supposed father of our blessed Lord, was, by the ancients, said to be twice married; and lastly, that it is confessed that the forbidding second marriages to the clergy, and refusing to ordain such as have been twice married, is neither of the law of nature, nor any article of faith, nor any necessity of the sacrament; it is only a constitution of the church, which as the Pope binds on, so he may take off as he please, as is affirmed by Aquinas [x], Durandus [y], Gabriel Vasquez [z], and others: and therefore this law also ought to be cancelled; but if it be not annulled by express revocation, it is unjust, and unreasonable, and unnecessary, and a snare to

[u] Halach Isioth. cap. 15.
[x] Quodl. 4. art. 13.
[y] In sent. 4. dist. 27. q. 4.
[z] In 3. part. tom. 3. disp. 24. cap. 5.

consciences, and is not the circumstance of a thing commanded, but of that which ought to be left at liberty, and therefore is no measure or proper band of conscience; but to us it is an obligation neither in conscience nor in law. But

> Hæc ideo volui nostris intexere chartis,
> Ut quoties patres——coeunt,
> Sint memores, magno ad leges opus esse ferendas
> Ingenio, multis oculis, examine recto[a].

I have given these instances not only to fix the conscience in these great inquiries, but by those to explicate the measures of the rule.

Sect. 5. *Of ecclesiastical Laws of Faith, or Articles of Confession.*

RULE XXI.

The Catholic Church is a Witness of Faith, and a Record of all necessary Truths; but not the Mistress and Ruler of our Creed; that is, cannot make any Laws of Faith.

1. In our inquiries of faith, we do not run to the Catholic church desiring her to judge our questions: for she can never meet together; and she is too great a body to do single acts and make particular sentences: but to her we run for conduct, by inquiring what she believes, what she hath received from Christ and his apostles. So that the authority of the Catholic church is resolved into Catholic tradition. Whatsoever can be made to appear to have been, by the apostles, taught and consigned to the church, that is a law of faith. But of this I have already given accounts[b]. The Catholic church, taking in the apostolical, that is, the church of all ages, is a witness beyond exception. For if she have the Spirit of God, if she love truth, and if she do not consent to deceive herself, she cannot be deceived in giving testimony concerning matter of fact and actual tradition: or if she could, yet we are excused in following that testimony, because we have no better, we have no other. Better than our best, and better than all we have, we cannot be obliged to

[a] Mantuan. [b] Lib. 2. chap. 3. rule 14.

use: but therefore we have the justice and the goodness, our own necessity and the veracity of God, for our security, that this is a sure way for us to walk in. But then when this is reduced to practice in matters of belief, it will come to this only, that she bears witness to the Scriptures, that they are the word of God; but beyond what is contained in Scripture, she hath no article of faith.

2. The consequent of this, which I have largely proved and explicated in the place above cited, is, that all her sermons and all her explications of doctrines must be by that measure. If it be agreeable to Scripture, it is that which she hath received: but if she hath not received it, she cannot make a doctrine, nor deliver a proposition with authority, nor oblige the conscience.

3. But this rule, if it be understood of the Catholic church of this or any other present age, will not signify so much: for unless the tradition be delivered in a constant succession from the apostles, the church is not a certain witness, but makes herself a judge of truth; which she can never do, but by relating to the Scriptures, by showing there it is, in the code which she hath received. But when any doubt does arise concerning any matter of belief, the Catholic church hath no solemn court of judicature or place of resort, where a single person may go for determination. And if a question be between church and church, as between Rome and England, the question is, which is the catholic church; for indeed neither of them is: and there is no such thing then as a catholic church to determine the question: as when the head and the belly, the mouth and the arms, fell out, the whole body could not be judge of the controversy; but if they had had a rule, thither they might go to be guided. And if it be asked, who shall expound the rule, there is no other answer to be given, but to desire men to be good and humble, to pray to God, and without partiality to desire truth; and then every man will be able to answer his own question. For if the rule be hard, it is hard to them, that are not willing and soft and compliant; but not to the gentle and the humble, to them that follow God in simplicity, and whithersoever he will lead them.

4. But it is to be considered, that the church is a net, that hath in it fishes good and bad; it is a field of corn and

tares; and but that the apostles were guided by an infallible Spirit, there could have been no certainty: but then after them there was no more to be looked for; what they left we were to use, but to look for no more. For the catholic church never was, since the apostles' time, without error. By catholic church, I do not mean the right believing part of the church (for in questions of faith the dispute was which was the right believing part); but I mean all that profess the faith of Christ, who, when they are divided, will never allow the opposite party to be their judge: and therefore it cannot be supposed, that God should appoint one to be the judge, who must always be supposed a party, and will never be accepted by the other, unless he had given infallibility to that one part, and we had all known it. To the apostles he did, and they were the fountains of tradition: but when they were gone; the only way that was left, was to see what they left, and to that every part was to conform; but neither part was judge, except only for themselves: and, in this, every part ought to be trusted, because they only had the biggest concern to take care, that they be not deceived. No man or company of men was charged with them; every government was charged with its own care and conduct.

5. But I shall not insist upon this, because it can be of no use in the conduct of conscience. Because if ever there be a dispute in the church, there is no catholic church to which we can go: and if we call that the catholic church, which is the greater part, that may deceive us; for, in the days of Elias, almost all Israel had corrupted himself; and, in the time of the Arians, almost all the world was Arian; and, at this day, a very great part of the catholic church is stained with the horrible errors and follies of Popery: and, besides, our notices are so little and narrow of the belief of Christendom, our intercourses so small, our relations so false, our informations so partial, that it is not possible for us to know, what is the belief of the major part. It is not known at this day by the doctors of the Roman church, what is the practice of the Greek churches in the marriage of their priests, nor what is their doctrine of purgatory, nor of the procession of the Holy Ghost; as appears in their disputes and contrary narratives of these particulars. We cannot tell in England, at this day, whether the Lutheran churches have

right ordinations and perfect succession of bishops in their churches. I have endeavoured very much to inform myself in the particular, and am not yet arrived to any certain notice of it. This therefore, to appeal to the sense of the major part of the church in a question, will signify nothing at all as to our conscience.

6. Especially, if to this we add, that the churches have got a trick of empire, and imposing their sometimes false, and always unnecessary, articles upon all of their communion; and then the faith of the church will depend upon the opinion of the chief and principals: and then their belief will be like a rumour spread from a few mouths into the ears of millions, who, though they all tell the same story, yet are no more credible for their multitude, than the first reporters were for their authority. Nay, in most places, men dare not speak what they think, and dare not believe what they find dangerous, and dare not inquire into what they dare not disbelieve; so that if you had been at Trent and asked the fathers, it would have signified nothing: for whatever their belief was, they were borne down by the congregations, and the congregations by the legates, and the legates by the pope, and that is the Catholic church.

7. It remains, therefore, that we are from the catholic church to expect no other determination of our questions, but by conveying to us notice of the doctrines apostolical. And this is often and largely discoursed and taught by St. Irenæus [c], by St. Clement in Eusebius [d], by Tertullian [e], by Origen [f], St. Cyprian [g], St. Athanasius [h], St. Basil [i], Epiphanius [k], St. Jerome [l], St. Austin [m], and Vincentius Lirinensis [n]: what they could derive from the fountains apostolical by a clear channel and conduit, that was first, and that was true, and that was in the rule, and that was the measure of faith. And, therefore, when, in the council of Ephesus, the epistle of Capreolus the bishop of Carthage was read for the establishment of antiquity, and the reproof of the new doctrines, all the bishops cried out, "Hæ omnium voces sunt,

[c] Lib. 3. cap. 40. et lib. 5. cap. 23. lib. 4. cap. 43. et 63.
[d] Lib. 3. cap. 12.
[e] De Præscript. et contr. Marcion. lib. 4.
[f] In Proœm. lib. 1. περὶ ἀρχ.
[g] Epist. ad Pompei.
[h] Ad Serap. de Spir. S.
[i] Serm. contr. Sab. et Arium.
[k] Hæres. 31.
[l] Adv. Lucifer.
[m] Contr. Faust. Manich. lib. 11. cap. 2.
[n] Cap. antepenult.

hæc omnes dicimus, hoc omnium votum est." "This was the voice of them all, they all said the same thing:" and what was that which they all affirmed, "Nisi ut quod erat antiquitus traditum, teneretur, quod adinventum nuper, exploderetur," saith Vincentius; "That what is ancient and at first delivered, that should be held; that which is lately invented, should be exploded."—For the church cannot determine questions by way of judgment and authority, but by way of attestation, and as a witness only of the doctrine apostolical. There is nothing else necessary, and nothing else is practicable.

RULE XXII.

The Decrees of general Councils are of great Use in the Conduct of Conscience, but not the proper Measure, or last Determination, of Matters of Belief.

1. I BEFORE[o] considered councils, as they had acquired an accidental authority by the veneration of their age, and their advantage of having been held in the elder ages of the church: now I consider them in their own proper and immediate pretence. I then considered them in order to government, but now in order to faith: for councils ecclesiastical have pretended to a power over the conscience, so as to require both the obedience of the will, and the obedience of the understanding. Concerning which I am to say, that nothing can oblige to divine faith but a divine authority: to which councils can no more pretend for being general, than for being provincial; and to which great assemblies have no other title or pretence of promise than the private congregations of the faithful, who, though but two or three, yet shall be assisted by the divine presence. But general councils are so wholly of human institution, that though, by the dictate of right reason and natural wisdom, they are to be convened; yet to make them a formal judicatory, and to give them a legislative power, or a dominion and magistery in faith, there are so many conditions required both to their indiction and convention, to their constitution and integrity, to their conduct and pro-

[o] Rule 14.

ceeding, to their conclusion and determination, that men are not, to this day, agreed about any one of them; and therefore they cannot be a legal judicatory obliging any but them that do consent, and so oblige themselves.

2. But yet they are of great use for inquiry and consultation: and therefore Eusebius[p] speaking of Constantine the emperor, says of him, "Concilium generale tanquam Dei exercitum instruens, in unum locum coegit." A general council is God's army; and being a representative of the church in the same degree, as it is general and rightly called, and rightly ordered, and rightly proceeding,—it partakes of the church's appellation: it is 'acies ordinata,' 'terrible as an army with banners.' Let them be as many as it happens, 'in the multitude of counsellors there is safety;' that is, they are more likely to understand truth than single persons, for they are not so soon prejudiced and corrupted: as a river is harder to be poisoned, or to be turned aside, than a pail of water or a dish full; but if if be, it is so much the worse. But if they proceed rightly, they are excellent helps; and some of them have done great good to the church, and some have done great mischief; and which have, and which have not, we are to inquire by other instruments: so that we are to judge concerning them, and then they are to be guides to us; that is, we consider, which are fittest to be followed, of which we judge by general and extrinsic considerations, and then we follow them in the particular inquiry; that is, we follow them, because we think they followed the apostles, and were faithful witnesses of their doctrine. Which indeed is an excellent benefit, which we may receive by the first and most ancient councils, which were near the fountains. They could trace all the new pretences up to their original; they discussed the doctrines in their provinces; they heard what any one could say: they carried it to the general assembly; they compared it with the tradition and doctrine of other churches; and all together were able very well to tell, how the apostles had taught the churches of their foundation. And because the four first general councils did, or are supposed to have done, so,—therefore they have acquired a great, but an accidental authority, and are accepted by the most part of Christendom, and made into human laws of

[p] Lib. 3. de Vita Constant. cap. 6.

faith, and the measures of heresy. Such use as this the conscience can make of the ancient councils; but beyond this, or some such good use as this, the conscience is at no hand obliged to follow their determinations, as the sentence of a competent judge, but as of an authentic witness, when it can appear or be credible, that it can be so, and is so. And this was the very thing that St. Athanasius [q] affirmed of the Nicene council: "Siquidem Nicæna synodus non temere habita est, ut quæ habeat gravissimos usus ut legitimam rationem." The Nicene synod was of great use. They met about the question of Easter and the Arian heresy. "Sed in negotio Paschatis non abhorruerunt ab istiusmodi appendice. Ibi enim placuit ut adderetur, 'Visum est ut omnes obtemperarent. De fide vero non scripserunt, 'Visum est;' sed ad istum modum, 'Credit Catholica ecclesia:' et statim confessio ipsa credendi adjuncta est, ut ostenderent eam non esse novam sententiam, sed apostolicam, et quæ ipsi scripsissent, non esse sua inventa, sed apostolorum documenta:" "But in the matter of Easter" [because it was a ritual, and the circumstance of time, and the unity of order] "they decreed, that every one should obey. But in the matter of faith, they did not write so, that they appointed every one to obey; but in this manner, 'The catholic church believes:' and then they adjoined the confession of faith, to show that the doctrine was not new, but that it was apostolical, it was that which they wrote, but nothing of a later birth." To any other purpose neither the council of Nice nor the council of Ariminum, is of any use or authority; save only it is the sentence of so many men, and is to be received according to the credibility of the men, or the reasonableness of the article.

3. But then let it be considered, to what the authority of a council will amount according to the sentence of most men. The doctors of the church of Rome (a few only excepted) say, that 'a council, if it be not confirmed by the pope, hath no authority.' Upon this account, if they say true, every council is fallible, and therefore no rule or guide of faith: for unless it can be deceived, why should it be submitted to the judgment of the pope? and if it can be deceived, it cannot bind, because it cannot secure the conscience. But the others that are not of the Roman party, say, 'A council is then not

[q] De Synod.

deceived, when it delivers the doctrine of Christ and his apostles, and speaks consonantly to Scriptures: and if a single doctor does so, he is to be believed.' What then? where is the difference? this only is it, that it is more likely a council shall find out the truth, and report the tradition;—and if we be to choose our faith by guess and probability, a council is better than a single doctor, by so much as there are many more than one doctor in it. But this will only serve the turn, till men are willing, or at leisure to inquire: this only excepted; because few men can judge, and most men are ruled by others, all such persons can have nothing better to rule and determine them than a general council: but then it is an argument of reason, and not of authority; it is not because they are bound, but because it is most reasonable in their circumstances.

4. I should here have considered of what authority the writings of the fathers are to the interpretation of Scripture, and the conduct of conscience. But because I find only the same use of them as of other learned men, in all ages of the church, save only in those things, where they are witnesses of the apostolical doctrines, to which they best can give testimony who are the most ancient, and because themselves disclaim any authority in matters of faith, and call to be tried by the word of God;—I had rather this thing should be read in others[r] than in myself: because it is matter of envy and reproach to tell why they cannot be relied upon; and to add more reputation to that authority, which they have acquired by many intervening causes, by reason, and by unreasonableness, would be matter of danger, and sometimes the causes of error, and very often of a deceitful confidence. But who please, may see this uncertainly disputed, and never concluded to any certainty, by Cajetan[s] on one side, and Melchior Canus on the other. He may also consider the saying of the bishop of Bitonto[t], that he preferred the sentence of one pope before a thousand Jeromes, and a thousand Austins and Gregories; and that every side declines their arbitration, when they speak against them;

[r] S. August. epist. 48. et 111. Vide Gratian. dist. 9. Cyril. Hier. Catech. 4. S. Jerome. ep. 19. et 76.

[s] Præfat. in comment. de locis com. lib. 7. cap. 3. concl. 3, 4.

[t] Concion. in epist. ad Rom. cap. 14. pag. 606.

by which it appears, that no side supposes themselves to be bound in conscience to follow them.

5. But the best use of them is that which the church of England hath described in one of her ancient canons, that her bishops and priests should teach nothing, "nisi quod ex doctrina Veteris et Novi Testamenti veteres patres et ecclesiæ episcopi collegerint:" "but what the fathers and ancient bishops of the church have gathered out of the doctrine of the Old and New Testament:" which canon gives a very good answer to this inquiry, if we should enter into it. For it declares that the fathers are so far to be followed as they follow Scripture, and that their writings are of great use for the reproof of new doctrines: and certainly if preachers were confined to this measure, possibly we might miss some truths, which now, it may be, we find; but it is certain we should escape very many errors. For the rest I refer my reader to the archbishop of Spalato [u], to Rivet [x], to Daniel Tossanus [y], to Gregory de Valentia [z], to bishop Morton [a], and to Dr. Whitaker [b]. In this whole affair the conscience is at liberty, and therefore I am here to inquire no further.

RULE XXIII.

Subscription to Articles and Forms of Confession in any particular Church, is wholly of political Consideration.

1. When forms of confession are made, and public articles established, it is of great concernment not only to the reputation of the government, but to the unity and peace of that Christian community, that they be not publicly opposed. To this purpose we find so many subscriptions to the decrees of councils, by princes and prelates, and priests and deacons, by prefects of cities, and governors of countries; it was an instrument of unity and peace, a declaration of their consent, and at no hand to be approved, unless it be in a false article, or with tyranny to consciences, or to maintain a faction.

[u] De Rep. Eccles. lib. 7. cap. 6.
[x] Prolegomena to his Criticus Sacer.
[y] Synopsis de Legendis Patribus.
[z] Analysis Fidei.
[a] Catholic Apology.
[b] De Script. Auctoritate.

But that which the government looks after, is, that no new religions be introduced to the public disturbance; of which the Romans were so impatient, that they *put to death*[c] a noble lady, "Pomponia Græcina, utpote novæ cujusdam religionis ream," saith Tacitus, "as being guilty of a new religion." Now to prevent this, subscription is invented, that is, an attestation of our consent; which if it be required by the supreme authority, it may be exacted in order to peace and unity; and Tacitus[d] tells that Assidius Merula was degraded from the dignity of a senator, because he refused to subscribe to the laws of Augustus. This is the same case; for subscription serves no other end, but that which is necessary in government. We find in Polydore Virgil[e], that the ancient kings of England, at their inauguration, "silicem tenebant juraturi per Jovem, se religionem et ritus patrios retenturos, hæc verba loquentes, 'si sciens fallo, tunc me diespiter, salva urbe arceque, bonis omnibus ejiciat;'" "they swore by Jupiter that they would keep the religion and their country rites; and cursed themselves, if they did not." This was more than ecclesiastical subscription: for that bound them to it for ever; this only gives witness of our present consent, but according to its design and purpose: for the future, it binds us only to the conservation of peace and amity.

2. For though it may be very fitting to subscribe a confession of articles, yet it may be very unfit, that we swear always to be of the same mind; for that is either a profession of infallibility in the authority, or in the article,—or else a direct shutting our heart against all further clarity and manifestations of the truths of God. And therefore subscription ought to be so intended, that he who hath subscribed, may not perceive himself taken in a snare. But yet he that subscribes, must do it to those purposes and in that sense and signification of things, which the supreme power

[c] Tacitus does not say, that Pomponia was *put to death*: but that her husband and relations sat in judgment on her conduct; and pronounced her innocent. She *lived to a great age*.—"Pomponia Græcina, insignis femina, Plautio nupta, ac superstitionis externæ rea, mariti judicio permissa. Isque, prisco instituto, propinquis coram, de capite famaque conjugis cognovit, et insontem nuntiavit. Longa huic Pomponiæ ætas fuit."—Annal. xiii. 32. Ruperti, pag. 343.—(J. R. P.)

[d] "Assidium Merulam, quòd in acta D. Augusti non juraverat, albo senatorio erasit." Annal. iv. 42. Ruperti, pag. 205.

[e] De Rerum Inventor. lib. 4. cap. 12.

intends in his commanding it; that is, at least, that he who subscribes, does actually approve the articles overwritten; that he does, at that time, believe them to be such, as it is said they are; true, if they only say they are true; useful, if they pretend to usefulness; necessary, if it be affirmed that they are necessary. For if the subscriber believes not this, he, by hypocrisy, serves the ends of public peace and his own preferment.

3. But this whole affair is to be conducted with some wariness, lest there come more evil by it than there can come good. And therefore, although when articles are framed, the sons of the church ought to subscribe them for public peace, in case they do heartily approve them; yet such articles ought not to be made and imposed, unless they of themselves be necessary, and plain by a divine commandment. And this was the advice of Melancthon[f]: "Ut sit igitur discordiarum finis, recte facit potestas obligans homines ut obtemperent, quando alioqui parere est necesse;"—"The supreme power may then command men to subscribe to such articles, which it is necessary that they should believe." But if God have not commanded us to believe them, no human power can command us to profess them.

4. Beyond what is necessary or very useful, unless peace be concerned in the publication of the article and its establishment, it is but weakly and impertinently concerned in the subscription. For if the peace of the church be safe without the article, how can it be concerned in the consent to it and profession of it, excepting only by an accidental and a necessity superinduced by themselves and their own imprudent forwardness, or itch of empire over consciences? If an article be contested publicly, and is grown into parties and factions, and these factions cannot be appeased without decision of the question,—then the conformity is as useful to peace as the sentence and determination were; and then there is nothing else to be considered, but that the article be true, or believed to be so. But to them that are so persuaded, it is necessary they obey, if they be required to subscribe; and the supreme power hath authority to require it, because it is one of their greatest duties, to govern and to rule in peace. But these things can seldom happen thus without our own

[f] In epist. et consiliis theologicis.

fault: but when they do, there is inconvenience on all sides; but that which is least, must be chosen.

5. When articles are established without necessity, subscription must be required without tyranny and imperiousness. That is, it must be left to the liberty of the subject, to profess or not to profess that doctrine. The reason is plain. In things, not certain in themselves, no man can give a law to the conscience, because all such laws must clearly be divine commandments: but if the conscience cannot be bound to the article, and the profession serves no necessary end of the commonwealth, then God does not bind, and man cannot: and therefore, to bring evil upon men that do not believe the article, and dare not profess to believe what they do not, is injustice and oppression, it is a law of iniquity; and therefore it is not obligatory to conscience, and no human authority is sufficient for the sanction and imposition. Socrates[s] was wont to say, "Sacramentum oblatum duabus de causis fide firmandum: vel ut teipsum à turpi suspicione liberes, vel ut amicos ex magnis periculis eripias:" "When you are required to give faith and security by a sacrament, oath, or subscription, there are two cases in which you must not refuse: when thou thyself art suspected, and canst no otherwise purge thyself; and when any of thy relations are in danger, that is, when it is for good to thyself or thy friends." But when there is no necessity of faith, and no public need to be served,—the causes that, besides these, enjoin subscription, are fond persuasions, and indiscreet zeal, and usurped empire over consciences; in which cases the ecclesiastic state hath no power to give commandments; and if the civil state does, they oblige to suffering calamity, but not to any other conformity, and then it is a direct state of persecution.

6. Upon the account of this rule it hath been of late inquired, whether it can be lawful for any man to subscribe what he does not believe to be true, giving his hand to public peace, and keeping his conscience for God.

7. But to this the answer is easy, if subscription does signify approbation; for in that case it is hypocrisy, and a denying to confess with the mouth, what we believe with the heart. But if subscription were no more than the office of

[s] Apud Stobæum.

the clerk of the signet or of a council, who, in form of law, is to sign all the acts of council, then the consideration were different. For he that is a public officer, and interposes the signature of the court, not as the account of his own opinion, but as a formality of the court, all the world looks upon it as none of his personal act, but as a solemnity of law, or an attestation of the act of the council. But in subscription to articles of confession, or censure of propositions as heretical, every ecclesiastic that subscribes, does it for himself, and not for the court. "Lubens et ex animo subscripsi:" that is our form in the church of England. "Consentiens subscripsi:" so it was in the ancient councils, as St. Austin[h] reports; 'I consent to the thing, my mind goes along with it.' But, in this case, the whole affair is put to issue in this one particular, which I touched upon before. If the intention of the superior be to require our assent to be testified by subscription,—he that subscribes, does profess his assent; and whatever he thinks himself, it is the intention of the imposer that qualifies the subscription. St. Austin[i] tells of a senator, that, upon his parole, went to treat for his ransom or exchange, and promised to return to them again, in case he could not effect it. But he, going from the army, pretended to have forgot something, and came back presently, and then departed. But telling his story to the Roman senate, and pretending himself quit of his promise, because he went back presently, they drave him out of the senate; because they regarded not what he had in his head, but that which the enemy intended, when they made him swear to return.

8. But the effect of these considerations will be this, that no particular church ought, with rigour, to require subscriptions to articles, which are not evidently true, and necessary to be professed; because in the division of hearts that is in the world, it is certain that some good men may dissent, and then either they shall be afflicted, or be tempted to hypocrisy: of either of which if ecclesiastic laws be guilty, they are not for edification, they are neither just nor pious, and therefore oblige not.

9. But if, for temporal regards, the supreme power do require subscription, those temporal regards must be complied with, so that the spiritual interest of souls and truth be se-

[h] Epist. 124. ad Alipium. [i] Ubi suprà.

cured. And therefore the next good thing to the not imposing uncertain and unnecessary articles is, that great regard be had, and great ease be done, to wise and peaceable dissenters.

10. And at last, in such cases, let the articles be made with as great latitude of sense as they can; and so that subscriptions be made to the form of words, let the subscribers understand them in what sense they please, which the truth of God will suffer, and the words can be capable of. This is the last remedy, but it is the worst; it hath in it something of craft, but very little of ingenuity; and if it can serve the ends of peace, or of external charity, or of a fantastic concord, yet it cannot serve the ends of truth, and holiness, and Christian simplicity.

CHAP. V.

OF LAWS DOMESTIC: OR THE POWER WHICH FATHERS OF FAMILIES HAVE TO BIND THE CONSCIENCES OF THEIR RELATIVES.

RULE I.

Children are bound to obey the Laws and Commandments of their Parents in all Things domestical, and in all Actions personal relating to the Family, or done within it.

1. THE word of the commandment is כבד, which signifies 'to be' or 'to make weighty;' but in Piel it signifies 'to honour,' that is, 'Honour your parents,' and do not lightly account of them: but in Leviticus[k] the word is יראא, '*Fear* thy mother and thy father.' They signify the same event of things: for a reverential fear is honour, and they both imply obedience. And there are three great endearments of this, which make it necessary, and make it as absolute as it can be. The one is, that our parents are to us in the place of God:

Νόμιζε σαυτῷ τοὺς γονεῖς εἶναι θεούς,

[k] xix. 3.

said the Greek comedy; "Suppose your parents to be to you as gods."—"Hæc enim paternitas est nobis sacramentum et imago divinæ paternitatis, ut discat cor humanum in eo principio quod videt, quid debeat illi principio à quo est, et quod non videt:" "For the father's power is a sacrament and image of the divine paternity, that a man may learn by the principle of his being which he sees, what he owes to the principle of his being which he sees not[l]:" and Plato[m] says, 'There is no image by which we can worship God so well as our fathers, grandfathers, and our mothers.' And therefore it is impiety to dishonour or disobey our parents; and it is piety, when we pay our duty to them. The same word signifies religion to God, which expresses this duty. "Parentes non amare, impietas est; non agnoscere, insania[n]." For as there are two great crimes which we commit properly against God, impiety or irreligion, and atheism; so there are these two crimes against our parents. He that does not honour and revere them, is impious or irreligious; and he that will not acknowledge them, is atheistical, that is, like the atheists, he denies the principle of his being. And therefore upon that of Virgil,

Huc, Pater O Lenæe, veni ——

Servius[o] observes, that the heathens called all their gods by the name of 'fathers:' and an injury, done to our father, is said to be done to God, according to that of Menander[p];

Ὁ λοιδορῶν τὸν πατέρα, δυσφημεῖ λόγῳ,
Τὸν εἰς τὸ θεῖον δὲ μιλετᾷ βλασφημίαν.

"He that reviles and speaks evil of his father[q], does blaspheme God;" for

Θεὸς μέγιστος τοῖς φρονοῦσιν οἱ γονῆς[r].

"God is the great Father of the world;" and therefore he hath, by the greatest religion, immured the father's honour.

Et Jovis imperium et cari præcepta Parentis, Edocet ——[s].

Next to God is our duty to our father.

[l] Hugo de S. Victore, lib. 1. de Sacram. cap. 7. [m] Lib. 2. de Leg.
[n] Seneca, lib. 3. de Benef. cap. 1. §. 4. Ruhkopf, vol. 4. pag. 92.
[o] In lib. 2. Georg. [p] Ed. Cleric. pag. 276.
[q] In verbis per totam vitam parentes venerari maximè decet: levium enim volatiliumque verborum gravissima imminet pœna. Plato, lib. 4. de Repub.
[r] Stob. Floril. tit. 79. pag. 341. ed. Beon. [s] Æn. v. 747.

2. The second endearment of our duty, obedience and regard to parents, is 'gratitude;'—which here hath the greatest obligation, and is to this purpose remarked by all laws and by all wise men of the world.

Omnis in Ascanio cari stat cura parentis[t].

'All their love and all their care is for their dear boy.' The child is a part of his parents, a tender part, but under custody and a guard; and the state of descent and succession from parents to children is called 'suitas' in the law; and there is so much of a father in his child, that if a father and a son be partners in a crime, and refuse to confess it before torments, the law commands the son first to be tormented; Charles II., the emperor, did so; as knowing that the father will confess rather than endure to see his son tormented: and when the father does confess upon the torment of his son, the father is said to be "confessus in tormentis," said Baldus[u], "he confessed in his torments." And as long as the son is in prison, the father is not accounted free in law: and the father's sins are then punished, when the child is made sick, or unfortunate. So that the government of children is no otherwise than as a man's will governs his own hand and foot; over which, always supposing him to abide within the limits and inclinations of nature, that is, to love and cherish them, and in no sense to hate them, in all other he hath an entire power of command.

3. The third endearment of children's obedience is, 'the power of blessing and cursing,' which God hath given to parents, and which himself, by his providence and great economy, will verify. "The father's blessing establisheth the houses of children, but the curse of the mother rooteth out foundations," saith Ben Sirach[x]. And St. Paul exhorting children to obey their parents, says[y] it is "the first commandment with promise," that is, the first, to which any special promise is annexed, the promise of longevity in the land of promise. "Benedictio merces obedientiæ est," saith Elias Cretensis: "The father's blessing is the reward of the son's obedience."—But it is observable, that the original word in the fifth commandment is of active signification, "Honour

[t] Æn. i. 646.
[u] Lib. 1. in si. cap. Si. Rect. Provi. in 2. lec.
[x] Ecclus. iii. 9.
[y] Ephes. vi. 2. 3.

thy father and thy mother, that they may prolong thy days upon the earth;" that is, saith Paulus Fagius, thy parents are God's ministers and instruments, the channels and conveyances of the divine blessing: for God hears the prayers of fathers and mothers blessing their obedient children, or cursing their disobedience; insomuch that Ezekiel[z] reckons their disobedience to their parents to be to the Jews the cause of their banishment from their own country. Suidas tells, that Leontius the bishop of Tripolis in Lydia, seeing his only son of an ill nature and apt to mischief, prayed to God that his son might die young, lest he should fall into impiety: and God heard the father's prayer.

Δειναὶ γὰρ κατὰ γαῖαν Ἐρινύες εἰσὶ τοκήων[a],

The curses of parents are grievous upon the earth. And this was observed among the heathens[b] in the sad examples of the children of Œdipus, Amyntor, and Theseus, who grew miserable upon their fathers' curses; and therefore Telemachus was afraid to cast his mother out of Ulysses' house, lest she should curse him. And this was it that brought servitude or slavery into the world; God having, in one of the fountains of mankind, in the great patriarch of the world, consigned a sad example, that for ever children should be afraid to dishonour their parents, and discover their nakedness, or reveal their turpitude, their follies, and dishonours.

4. To these I need not add their natural necessity, their disability to help themselves, their obnoxiousness to every evil, their defenceless condition, the miseries and calamities and infirmities by their want of wisdom, all which at first do infinitely endear obedience, and make it necessary. But I remember that this very thing was of great value amongst the ancients, and they did use to tell this fable to their children to teach them to obey their parents. "An old lion, amongst other precepts that he gave his son, charged him that he should never fight with a man, because if he was not too strong, he would, at least, be too crafty. The young lion heard him, but regarded him not; but therefore as soon as ever he was full grown, hastens abroad to seek a man to be his enemy. He came into a field, and saw a yoke of oxen

[z] Ezek. xxii. 7.
[a] Orpheus, Stob. Floril. tit. 79. pag. 341.
[b] Plato, lib. 11. de Leg.

standing ready furnished to plough, and asking them, if they were men, they said, 'No, but that a man had put those yokes upon them.' He left them and went aside, and espying a horse bridled and tied to a tree, asked if he were a man. He was answered, 'No, but a man had bridled him, and would by and by come to ride him, for a man was his master.' At last he finds a man cleaving wood, and asked him: and finding him to be so, told him he must then prepare to fight with him. The man told him, 'with all his heart;' but first desired him to help to draw the wedge out of that tree, and then he would. The young lion thrust in his paws, and a little opens the tree till the wedge fell out, and then the tree closed upon his feet by its returning violence. The man seeing the lion fastened, and the lion seeing himself entrapped, the man cried out to his neighbours to come to his help; and the lion, to escape his danger, tore his feet from the tree, and left his nails and blood behind him; and returning with shame and smart to his old father said to him, 'Mi pater, si paruissem monitis tuis, ungulas non amisissem,' 'I had not lost my nails if I had obeyed my father's commandment.'" For the commandments of parents being for the good of their children, he cannot be prosperous that will not obey his father. That was their meaning.

5. But concerning the duty itself, there is no question; nothing is plainer, nothing is easier: but concerning the limits and administration of this power, there is very great difficulty; the Scripture speaking either indefinitely or universally, either of which does equally need a limit and specification. "Children, obey your parents in all things," saith St. Paul: and if that *all* were absolutely all, there were no difficulty in the understanding it; but infinitely difficult it would be to observe it, and reconcile it with our other duties and just interests. And just so is that law, which, by the consent of all the world, is represented as universally, "liberi quacunque in re parentibus dicto audientes sunto;" and he in the comedy[c]; "Pater adsum, impera quod vis, neque tibi ero in mora;" "Here am I, my father; command me any thing, neither will I resist." But this any thing and this every thing, is but any thing and every thing of a certain

[c] Trinum. act. 3. sc. 2. 1.

kind; which if we can establish upon certain measures, we have one great line more for the conduct of conscience. The divines and lawyers reduce the issues of this relation to three heads; 1. Reverence. 2. Animadversion, 3. Piety.

Of Reverence to Parents.

6. And first, it is certain, whatever can be signified by honour and fear and reverence, is the duty of children; that is, so far as to think honourably of them, to speak well of them, to conceal their faults, to excuse them to others, to comport themselves with reverence and great regard before them.

Βούλου γονεῖς πρὸ παντὸς ἐν τιμαῖς ἔχειν[c],

"Above all things have your parents in honour:" and this is to be expressed according as the parents shall require, and according to the customs of the nation and the most pious and obedient in it; for 'Vultu quoque lædi pietatem,' was an old rule; 'A child may be rude and undutiful in his very looks;' and he deserves to be punished with blindness, "qui parentum vultus torvo visu despexerit, et elatis oculis læserit pietatem," saith St. Jerome, "who by proud looks and scornful eyes is impious to his parents."—But this duty is well described by Theophilus to Autolycus; "Sanctum et laudabile censetur, non solum apud Deum sed et apud homines, videlicet ut in simplicitate et absque omni malitia subjiciamur parentibus:" "Children must be subject to their parents without all malice or perverseness, and in all simplicity," that is, ingenuity of words and manners. And when Ptolemy asked one of the seventy-two translators of the Bible, how a son should pay due thankfulness to his parents, he was answered, "Si nulla re illos tristitia affeceris," "If you grieve them in nothing."—That is the surest measure.

7. The next thing that is also certain in this, is, that all the good counsels and precepts of holiness and wisdom, which the parents give, it is necessary the children should observe; and besides that the not observing them is a sin against the special commandments, it is also a sin of disobedience, and a rebellion against the father's authority. So the father in the comedy[d] urges his authority,

[c] Stob. Floril. tit. 79. pag. 340. ed. Buon.
[d] Plaut. Trinum. act. 3. sc. 2. Ernesti, vol. 2. p. 390—1.

—Feceris par tuis ceteris factis, patrem
Tuum si percoles. per pietatem! nolo ego cum improbis te viris,
Gnate mi, neque in via, neque in foro ullum sermonem exsequi.—
Hæc dies noctesque tibi canto, ut caveas.—
—— meo modo, et moribus vivito
Antiquis. quæ ego tibi præcipio, ea facito.
Hæc tibi, si mea imperia capesses, multa bona in pectore consident.

"Keep good company, avoid the debaucheries of the present times, live as I command, and as your forefathers did live; and if to these purposes you submit to my government, good things shall dwell within you."

8. But we find amongst the ancients some little instances of this honour and reverence, besides obedience, specified. The ancients would not without leave go from the presence of their father; so he in the comedy[e],

—— neque latebrose me abs tuo
Conspectu occultabo ——

They would not conceal from their parents the intercourses and accidents of their youth, their amours, their mistresses, their designs of marriage, their little plots, and advantages or disadvantages.

Quæ fert adolescentia
Ea ne me celet, consuefeci filium[f]:

that is, they accounted it part of the honour due to their parents, to tell them truth in all things where they were interrogated, or suspected.

Nam qui mentiri aut fallere insuerit patrem,
Aut audebit, tanto magis audebit cæteros.

He that lies before his father, dishonours him, and commits two sins; he transgresses two commandments. Add to this, they counted it impiety to steal[g] any thing from their parents.

Egon' patri surripere possim quidquam tam cauto seni?
Atque adeo si facere possem, pietas prohibet.

That is, whatever was a single injury, if done to a stranger, was double if committed against their parents: for as to do good to them was a piety as well as charity, it was religion and justice too; so to do any evil to them is to do them dis-

[e] Trinum. ii. 2. 2. [f] Adelph. i. 1. 28. Westerhov. vol. 1. pag. 652.
[g] Prov. xxviii. 24.

honour, and expressly against the fifth commandment. These are the first general measures, and the indication of very many particulars.

9. But there is one great measure more, and that is, that specification of the duties of this commandment, which we find in the laws of nations and the consent of all wise men, and particularly of those with whom we do converse, and by whom we are governed. For our parents have a double power over us, one by the law of nature, and the other by the civil law; that is, there are some duties which children do owe to their parents, which are primely and indispensably necessary,—others which are specifications and instances of a general duty, but such which may suffer increase and diminution, but are necessary by virtue of a divinec ommandment, when they are bound upon us by the laws of our country; because these are of the nature of those things, whose natures can be changed by becoming laws, and are reduced under the category of their proper virtues. The particulars I shall draw out of the laws of nations, from the civil and canon laws, reducing them to distinct rules, and shall describe their several obligations of the conscience; and they relate to the other two parts of parental power, signified by 'castigation' and 'piety.'

Of Castigation, or the Coercitive Power of Parents.

RULE II.

Fathers have a Power to chastise their offending Children, but not a Power of Life and Death.

1. In the laws of Romulus and Numa, fathers had a power three times to sell their children, and a power to put them to death in certain cases: and they attribute much of the prosperity of their city to this permission, nothing being a better instrument to make good citizens, than by making them good sons; it being very unlikely that ever he should command well abroad, that knows not well how to obey at home.

Ὅστις φοβεῖται τὸν πατέρα αἰσχύνεται,
Οὗτος πολίτης ἀγαθὸς ἐστὶ κατὰ λόγον·

said Timocles[h]; "He that fears and obeys his father, without peradventure as he is a good man, so he will make a good citizen[i]." And therefore it was observed by Dionysius Halicarnasseus, that, amongst the Greeks, contumacy, impiety, and parricide, were very common; and he gives this reason, Because Charondas, Pittacus, and Solon, did, by their laws, give the fathers no great power over their children. But I said that the Romans did; and those great examples of Titus Manlius, C. Flaminius, C. Cassius, who put their sons to death, were indeed very severe, but did imprint great terrors upon all the Roman youth. Bodinus thinks this to be a natural and unalterable power; and Ærodius supposes, that God would not have commanded Abraham to kill his son, but that it was a part of his ordinary and inherent power; and when Judah commanded his daughter-in-law Tamar to be brought forth and burned for her adultery, it gave indication, that he, by his supreme paternal power in the family, had power of life and death. And of this there is no question in the heads of families, where the father is a patriarch, the fountain of his nation, or of his society, and under the command of no superior: for the paternal power is the fountain of the royal; and Abimelech was nothing but 'the king my father.'

2. But when families were multiplied, though fathers were fitter to be trusted with the severest power than any other sort of interested persons, yet because this might fall into disorder, God was pleased, in the law of Moses, so to order this affair, that the father's power should not be diminished, and yet the execution of it and declaration of the sentence should be trusted to the judge. For if a father found his son stubborn, rebellious, disobedient, a glutton or a drunkard, all which are personal crimes, and against the private authority and counsel of the father, the father and the mother might delate him to the judge, and without further proof but their own testimony he was to be stoned to death[k]. Drunkenness and gluttony were, in no other cases, capital in the law of Moses, but when joined with rebellion

[h] Stob. Floril. tit. 79. pag. 339. ed. Buon.—The original Greek has been substituted in room of Bp. Taylor's Latin translation: "quicunque patrem timet ac reveretur, hic in bonum civem evadet procul dubio."—(J. R. P.)

[i] Si quis inofficiosus fuerit in parentes, omnium magistratuum sit incapax.—Ἐὰν δέ τις γονέας μὴ θεραπεύῃ, ἡ πόλις ἀποδοκιμάζουσα οὐκ ἐᾷ ἄρχειν τοῦτον. Memorab. lib. 2. cap. 2. §. 13. ed. Benwell, pag. 133.

[k] Deut. xxi. 18.

or disobedience to their parents. And like to this proceeding in Moses' law was the process in the Persian monarchy. For Ælian tells, that when Rhaco the Mardian brought Cartomes his son with his hands bound behind him to Artaxerxes, desiring that the prince would command him to be slain, because he was imprudent, he was naught, he was a villain; the Persian king asked him if he could find in his heart to see his son die with violence. The father replied, 'I have in my garden a goodly lettuce, fat and wanton and full of leaves. When I find any of them luxuriant, proud and exorbitant, though it be a part of the body I cut it off; and so I do to whatsoever is bitter and superfluous; and my lettuce is the sweeter for it: it does not bewail the loss of its bad leaves, but thrives the better. Think the same of me, O king; for though he be pared away, that hurts my family, that gives ill example to his brothers, my stock will be the more thriving, florid, and fruitful, in all good things.' By this instance we perceive, that when fathers had not power to put to death their rebellious children, they could require it of the prince, who was to proceed summarily, and merely upon the father's instance. And we find in the French annals, that Stephen Boslee, the president of Paris, impaled a young fellow, because his mother said that she could, by no arts or labour, keep him from being a thief.

3. But this went off very much in the manners of men; and children were, by other means, restrained ordinarily, before things were brought to that extremity; and in the civil law[l], parents were forbidden to kill their children; and this law hath prevailed in all Christendom, excepting that a man is, in some places, permitted to kill his daughter, if he sees her in unchaste embraces. But instead of these great excesses of power, there is left to Christian parents nothing but a decent castigation in the lesser and single faults, and disinherison in case of great and persevering. That children are to submit to the animadversions and chastisements of their fathers is the voice of nature, and of all nations, of Scripture and right reason. So St. Paul[m]; "We have had fathers of our flesh which corrected us, and we gave them reverence:" and Ben Sirach[n] teaches us, "In opere et sermone et omni

[l] Sect. final. inst. de noxa. lib. Divus. ff. ad leg. Pomp. de Parricid. et toto tit. cap. de his qui Parent. vel fil. occid. [m] Heb. xii. 9. [n] Eccluş. iii. 8.

patientia honora patrem tuum;" "Honour thy father in thy work and in thy word, and in all patience;" so the Vulgar Latin reads it; that is, suffer what he imposes upon you. And this was it which the young Greek that Plutarch speaks of, had learned in Zeno's school, "Didici patris iram ferre:" "I have learned (saith he) patiently to bear my father's anger." The authority is plain; the measures of it are only, that it be done for amendment; that is, that it be discipline, not anger and revenge, and that it be done with charity and moderation,—which is signified by St. Paul [o]; "Parents, provoke not your children to wrath;" which precept he repeats: Μὴ ἐρεθίζετε, μὴ παροργίζετε, give them no opprobrious words, no contumelious and provoking language, and therefore much less, any cruel and indecent castigations.

> Pudore et liberalitate liberos
> Retinere satius esse credo, quam metu.—
> Hoc patrium est, potius consuefacere filium
> Sua sponte recte facere, quam alieno metu.
> Hoc pater ac dominus interest: hoc qui nequit,
> Fateatur nescire imperare liberis [p].

A master governs by fear, and a father by love, and both by their authority: but the gentle way is the father's method; but if he will use the severe, he hath authority to do it; and right or wrong, he must be suffered, till the evil be insufferable, and then he may decline it, but ever with reverence to his father's honour:—for indeed against a father's tyranny there is no aid, no remedy, no intercession, but by an appeal to the common father, the chief of all the tribes and all the families. This only I am to add, that as fathers have not a power of life and death over their children; so neither are they lightly to use that power which they have, and is next to this, that is, that I may use St. Ambrose's [q] expression, "ne læsa pietas patris ulciscatur se exhæredatione vel abdicatione contumacis generis;" a power of disinherison is not to be used for every great offence, much less for a little. "Pater, nisi magnæ et multæ injuriæ patientiam evicerint, nisi plus est quod timet quam quod damnat, non accedit ad decretorium stilum," said Seneca [r]; "A father will not easily

[o] Ephes. vi. 4. Coloss. iii. 21.
[p] Adelph. act. 1. sc. 1. 49. Westerhov. vol. 1. p. 655.
[q] Lib. 5. epist. 20.
[r] Lib. 1. cap. 14. de Clement. Ruhkopf, vol. 1. pag. 459.

proceed to an exterminating sentence, unless great and many injuries have quite overcome his patience. Nor then neither, unless he fear worse things than those which he already blames."—For, as Quintilian[s] observed well, this power was not given to fathers but when their sons are incorrigible: "Fulmen istud patrum adversus ferociam adolescentiæ datum est, adversus filios qui peccare plus possunt:" If they will sin yet more, and will not be corrected, then they may unwillingly use this thunderbolt. It is like the sentence of excommunication, never to be used, but when nothing else will cure the man, and nothing at all will make the mischief tolerable: that is, a son may not be disinherited, but when he may be hated,—which may never be, "sine causis multis, magnis et necessariis," as Cicero[t] affirms; 'the causes must be great and many,' and intolerable, and without remedy. But of these things because the fathers are judges, they must judge according to the permissions of law, and the analogies of Christian prudence and charity; for if they do amiss, the child is miserable by the father's passion, and the father by his own.

Of Piety to Parents.

RULE III.

A Father hath Power over the Goods and Persons of his Children, so as to be maintained by them.

1. The lawyers[u] define the paternal power to be "jus moribus legibusque constitutum, quo patri in filium bonaque ipsius plenum jus olim tributum fuit;" "a full right upon his son and his son's goods introduced by laws and customs."—Now this full right is alterable by the civil law of any nation: that is, whereas amongst the Romans whatsoever the son acquired, he acquired it not for himself, but for his father; this may determine sooner or last longer, according to the appointments of law, for "the heir, so long as he is a child, differs nothing from a servant," and therefore if the law please,

[s] Declam. 259. [t] Orat. pro Rosc. Amer.
[u] Sebast. Monticul. de Patria potest.

may be used accordingly: and, when the law hath so appointed, the conscience is bound by it.

2. But that which is not alterable by laws, is that, which is the natural and necessary duty, that parents be maintained by their children, if they need it: for this is in the commandment, this is a part of the honour that is due to them. For so our blessed Saviour[x] remarks the *ἀντίθεσις*: the Pharisees that taught the children to cry 'Corban,' 'It is a gift,' and therefore out of it the parents must not be profited, he calls it "a not honouring the father and mother;" and "the double honour," which St. Paul[y] commands to be given to "the elders, that rule well," is instanced in the matter of maintenance. And this the heathens had. So Hierocles[z]: *Γονέας τιμήσομεν ὑπερβαλλόντως, σώματος ὑπηρεσίαν καὶ χρημάτων χορηγίαν αὐτοῖς ὑπέχοντες ὅτι μάλιστα προθυμοτάτην*, "Let us greatly honour our parents, affording them the ministry of our bodies and the use of our wealth most cheerfully." But this Cicero[a] limits to the "necessaria vitæ præsidia, quæ debentur iis maxime," "the necessary aids of life;" that is, "what is for their support, to keep them from need and shame, according to the quality of the parent and ability of the child: so that this be first respected, and then that," saith Bartolus[b]. To this purpose is that of St. Ambrose[c]: "If the contumely of the father, and the reproaching or vilifying of the mother, be punished so severely, what shall their starving or their beggary be?" This the Romans did resent so deeply, that they made a law, that, if a son that was emancipated or quitted from his father's government, did deny aliment to his indigent father, he was to be reduced under his father's power, and so to abide for ever. But by this instance it is apparent, that this is no part of the father's power, but is an office of the son's piety. For between the father and the son, there is a threefold cord or tie, as I have already observed,—the band of reverence, of castigation, and piety; the two first are the father's authority; this last gives the father properly no right, but obliges the son directly. But then this is to be added, that this obligation is only con-

[x] Matt. xv. 6. [y] 1 Tim. v. 17.
[z] Ed. Needham, pag. 44. last line.
[a] De Offic. i. 17. 15. Heusinger, pag. 146.
[b] In lib. Si libertis, sect. manumissis, ff. de alim.
[c] In Luc. 18.

firmed by the civil laws[d], but it is immediately tied upon him by the natural: for a son is bound to keep his father from starving, though he be a bandit, or an outlaw, that is, though he have lost all civil rights, because no civil power can prejudice a divine commandment. Plutarch[e] tells, that, by Solon's law, the son was not bound to give his father aliment, if his father caused him to learn no trade, or taught him nothing, whereby he might get his living. Indeed if the father neither did give him whereon to live, nor teach him whereby he might get it himself, the son is the less obliged; but yet sufficiently for this, because it is, by a law of nature, that he is obliged, and all such obligations are before such conditions can intervene. Πῶς ἂν ὁ γεννηθεὶς ἀντιγεννῆσαι δύναιτο τοὺς σπείραντας, said Aristotle. Something else is to be considered besides the advantages of education: the father was the principle of his being, and in that he can never be requited in kind, and therefore let him be paid by duty.

3. But if the case be such as divides the duty, and the money cannot be divided, what shall then be done? Marco Tomaso, a tradesman in Venice, had a father and a son, both lame, both in great necessity. The father lost all his goods to the Turks, and the son had rowed in the galleys, till all his strength and health were gone; but the poor cutler (for Tomaso was no more) was not able to relieve them both: what shall he do? the case here is hard. But love descends, and ascends not: therefore Tomaso's bowels yearn upon his son; and he cannot have that tenderness for his father; and he were unnatural, if he should let his son perish, it is true: but therefore he ought not to neglect his father, and feed his son, because his son does not, cannot, love him as his father does; and therefore he is obliged by gratitude to his father, and by tenderness to his son; to this there is more natural inclination, but to the other there is more natural duty. And therefore the lawyers say, that 'amor descendit' is to be understood 'quoad ordinem dilectionis, non quoad effectum obligationis.' Love does descend, but it should not in some cases. And therefore when the law gives leave, that a son may, by his father, be sold to keep the father from starving, it shows plainly, that the father is, in cases of necessity, to be preferred.

[d] Lib. Unic. cap. de Ingrat. Liber. [e] In Vita Solon.

4. And this indeed, by the help of the civil laws, brings this rule to an instance of paternal power; for a father in this law hath a right over his son, and can deliver him to labour and service for the necessary support of his helpless father. This we find done frequently.

——— Tandem, demisso in viscera censu,
Filia restabat, non illo digna parente.
Hanc quoque vendit inops[f].

And Eusebius tells it was done in the time of Maximianus the emperor; and the prophet Jeremy brings in the people complaining in a time of famine, "Our sons and our daughters are too many; let us take corn for their price, that we may eat and live." But this, being only in the case of extreme necessity, it is not to be drawn to any thing else; for this power is only just when it is unavoidable: and therefore it is permitted in laws, which do therefore so comply with the necessity, and endeavour to find a remedy, or to make it tolerable, that, in such cases, the judges, if there be a contest in the particular, are tied to proceed summarily: and if a son should pretend causes of excuse from giving aliment to his father, during the whole contestation, and till the proof be made, the son is tied to maintain his father in the interval; so careful are the laws to secure the performance of this duty, for the omission of which all the world hath observed great marks of the divine displeasure, expressed in judgments, and particularly of immature deaths; so Homer[g] observes of Simoisius,

——— οὐδὲ τοκεῦσι
Θρέπτρα φίλοις ἀπέδωκε, μινυνθάδιος δέ οἱ αἰὼν Ἔπλετ'.

"He refused to nourish his loving parents, and therefore he lived but a short life."

5. One particular more is to be added, and that is, if an indigent father have a rich father living, and a rich son, although both are obliged to nourish him, yet it is in the father's power to burden the son, to excuse the grandfather; that is, the power which the father hath over the son, can require this duty; the grandfather is equally obliged; but the son hath no power over him, the law hath. For, as for the thing itself, there is no other difference in it. But if the rich father refuses, he is worse than an infidel; if a rich son re-

[f] Ovid. Met. viii. 846. Gierig. vol. 1. p. 547. [g] Iliad. δ. 478.

fuses, he is impious; the first is unnatural, and the second is ungodly; the first is a heathen, and the other is no Christian; the grandfather hath no bowels, and the grandchild no gratitude; the first hath no humanity, and the other no religion; so that it is an even lay between them, which is the worst; but the necessitous father may put the duty actually upon the son, by reason of his paternal power, that is, he may so order it, that if the son refuses, he is not only uncharitable, but undutiful also; he commits two great sins; whereas the refusing grandfather commits but one, though that also be enough to bring him an extreme damnation.

RULE IV.

The Father's Power does not extend to Matter of Religion, and Persuasions of Faith.

1. In the law of the Twelve Tables, it was written, "sacra privata, perpetua manento," that "the private religion of a family should not be altered:" which Cicero[h] expounds to mean, that all those to whom the care of the father of the family did appertain, were tied to the celebration of the same rites; and the lawyers[i] say, that "filii sunt in sacris parentum, dum sunt in eorum potestate;" "children are within the holy rites of their parents, while they are in their power." And indeed this is very true in the court of conscience, so long as their understanding is in their father's power; but that is of all things first emancipated: when a son can choose for himself, when he is capable of malice and perverseness, when he is judicable by external and public laws, then he is emancipated and set free, so as he can choose his religion: and for that the father hath no power over him but persuasion and instruction. For it is very observable, that as it was said of the law of Moses, it was 'a schoolmaster to bring us unto Christ,'—so it is true of the 'imperium domesticum,' 'the father's government,' it is a pedagogy to bring us to the obedience of the laws both of God and man;—the father's commands are ex-

[h] Lib. 2. de Legib. cap. 9. Davis et Rath. pag. 133.
[i] Alciat. lib. 1. prætorm. in verb. Sacra.

acted, before the laws of God or princes do require obedience; because the government of children, is like the government of the sick and the madmen; it is a protection of them from harm, and an institution of them to obedience of God and of kings; and therefore the father is to rule the understanding of his child, till it be fit to be ruled by the laws of God; that is, the child must believe and learn, that he may choose and obey; for so we see it in the baptizing infants, the fathers and susceptors first choose the child's religion, and then teach it him, and then he must choose it himself. For the father's authority to the understanding of the child, is but like a false arch or temporary supporter, put under the building till it can stand alone; and it only hath this advantage, that the father hath the prerogative of education, the priority of possession, which how great it is, all the experience of the world cannot tell. But that this is part of the paternal power is evident, because no child is to be be baptized without his father's will. A Turk, a Jew, a heathen, can reckon their children 'in sacris parentum[k];' they have power, a natural and proper power, to breed up their children in what religion they please, but not to keep them in it; for then, when they can choose, they are under no power of man; God only is the lord of the understanding;—and therefore it is no disobedience, if a son changes his father's religion, or refuses to follow his father's change; for he cannot be hindered in that, where he hath no right, and no authority.

2. But this is so to be understood, that the religion of the son must, at no hand, prejudice the father's civil rights, so that he must not quit his father's house, if he be under his father's power, and, by the laws of his country, be obliged under that government. Vigorus, in his sermon of St. Martin, tells, that St. Martin, being but a catechumen and yet unbaptized, did still abide with his father and mother, though they were heathens, and he nevertheless did all the offices of a Christian. And there is in this great duty,—because one right must not destroy another; and a man may be of what religion he please without doing wrong to any man; for a man cannot be hindered in his persuasion; for though he dies, he is of that religion; but no good religion

[k] Panormit. in cap. 2. de Convers. Infid. et Baldus in lib. item in potestate. ff. de Ju. Person.

does warrant the son to do wrong to his father's legal rights. And therefore Marius Victor[1] observes of Abraham.

Verum mente Deum venerans, gentilia sacra
Adversatus erat ———

"He was a great hater of his father's idolatry and the impious rites of his family, yet he did not leave his father's house till after his father's death:"

Linqueret ut sedes patrias, terramque nocentem
Pollutamque domum, nisi postquam morte parentis
Jussa sequi jam posse Dei sine fraude licebat:

He might do it justly, when he had no just power over him to restrain him by the cords of another justice and a differing duty.

3. There is only this variety to be added, that when either of the parents is Christian, and the other infidel, the son is to be reckoned to the believing parent. The effect whereof can be this, that he or she that believes, hath a right to educate the children in Christianity without injury to the other, and the church may baptize the children against the will of the unbeliever. And the reason of this is, the prerogative of God, and of Christ who is head of the church, and the sovereign of all the world; for if the child is sanctified and made holy by the believing parent, then it may be brought to Christ; that sanctification of it is Christ's seizure of it, it is his right, because he hath made a covenant with the parents for themselves and for their children.

4. This is practised in the countries of the Roman communion to evil purposes; and if the father be a heretic in their account, they teach their children to disobey their parents, and suppose heresy to destroy the father's right of power and government. Between Christian and Christian, there is no difference as to matter of civil rights; no law allows that: but between heathen and Christian, so far as the soul is concerned, the right of Christ is indubitable; for we are sure Christianity is the true religion: but amongst the sects of Christians, the case is wholly differing, for they may both have enough to secure the souls of pious persons, and yet may both be deceived in their question, and unnecessary article.

[1] Tit. 3. Comment. in Genesin.

RULE V.

The Father's Power over the Children can remit an Injury done to them, without their Leave or Consent.

1. The reason of this depends upon the former considerations, and is to have its understanding accordingly. So long as the son is within the civil power of the father, so long as he lives in his house, is subject to his command, is nourished by his father's charge, hath no distinct rights of his own,—he is in his father's possession, and to be reckoned by his measures, and therefore cannot have any actions of injury for his own amendment.

2. But this is to be limited only to the effects of law and external courts and trials of right, or external actions of injury. For although a son cannot repeat what the father hath legally acquitted,—yet, if it be a personal action, in which charity and peace are concerned, the injurious person is bound in conscience to ask the son forgiveness, upon the account of St. Paul's words, "Follow peace with all men and holiness," and, "as much as is possible, live peaceably with all men;" which no man can be said to do, who hath done wrong to a person, to whom he will not do right. For besides the relation and communication of its effects between father and son, the son is a person too, and in personal actions hath an interest naturally and unalterably, which no fiction of law, no supposition of case, can take off. So that all the legal and external obligation the father may remit; but in the personal, there is something of proper concernment.

3. This is also to be limited to an intercourse with extraneous persons, and is not true in actions between the son and a conjunct person to him. And if the injury be done by a wife, or a spouse, or a freedman, or a person endeared and obliged by the son, the father cannot remit any such injury. The reason is, because, although by the force of the civil or municipal laws, the son be supposed to be still in the father's power, yet, in such things, he hath some peculiarity, and is, as to those things, free and in his own power. If the son's wife commit adultery, the father cannot forgive it, though

the son be under his father's power by law; because, as to all personal actions, the son hath a personal right, and such things have great dependance upon the law of God and nature, and these things to some great purposes do not at all communicate with the civil laws.

4. Lastly, this rule is so to be understood and practised, that it be no prejudice to the just interest of any other: and therefore a father cannot so forgive an injury done to his son, that he shall be tied not to witness it in public, when he is required by the civil power; for it may concern the commonwealth, that the criminal be punished, when it may become the father to pardon his and his son's share. He may remit all with which he hath to do, but not that, which may pass into the exchequer. But in such cases the judge may inquire; but the son, without the father's leave, may be no voluntary accuser.

RULE VI.

A Father's Authority cannot abide, after his Death; but the Son's Piety to his Father must, and may, pass upon him some indirect Obligations.

1. The son, after his father's death, is as much lord of his person and his estate, as his father was: and therefore although all the actions, which the living father did, which, by law or the nature of the thing, have a permanent effect, still do abide as they were left; yet those things, which are of an alterable nature, and to be administered by new councils, and to be determined by emergencies and proper circumstances, or are directly subject to empire, or are personal concernments,—these are in the power of the son, after his father's death. A father cannot, by his power, command a son to marry a person, whom the father does, but the son does not, love: he cannot command the son, by a just and sufficient authority, never to be a priest, or bishop, or magistrate: for in those things, in which his own mere interest is concerned, his own understanding must be his guide, and his will his ruler; for he alone does lie at stake,

whether it be good or bad; and it is not reasonable, that he should govern, who neither gets, nor loses, nor knows.

2. But though the father's authority be extinct, yet his memory is not, and there is piety towards the dead, and to parents much more; and of this the heathens gave some worthy examples. Herodotus[m] tells that the Issedones, a people of Scythia, did use to embalm their father's head, and then to cover it with gold, and use it for a divine image, and pay to it the veneration of a yearly sacrifice. This they intended for an honour to their dead father: but in this there were no signs of obedience. Nearer to this was that which Tertullian[n] tells of the Nasamones,—that they took their oracles at the graves of their fathers, as supposing the souls of their progenitors to have some right or care to conduct their children. But it was a pretty story that Ælian[o] says the Brachmanes tell of a certain king of the Indians, that had many sons, who, being all of them (the youngest only excepted) immorigerous and rebellious, at last drove their father and mother from their kingdom; and they with their youngest son wandering in strange places, were quickly consumed with age and weariness and inconvenience. The young son, seeing his parents dead, burnt their bodies, and striking his head with a sword, put the ashes into the wound, by that act of piety giving his parents the most honourable sepulture, but with it also emblematically representing that his parents even after death had power upon his head, and that his head ought to be submitted to them. And it was well; if piety goes before, whatever duteousness or observance comes afterward, it cannot easily be amiss.

3. Piety sometimes does more than authority can. "Plus potest patria potestas in liberos quam lex, legiove, aut summa dictatura," say the lawyers; 'A father or a mother can prevail, when a consul or a prince cannot.' "Cum Martius Coriolanus pergebat infesto agmine adversus patriam, quis illi arma succussit è manibus nisi una Veturia?" saith the Roman story: "Coriolanus took up arms in rage against his country; and no authority could disarm him but his piety to his mother Veturia."—Now this principle is a good one; but

[m] Τὴν δὲ κεφαλὴν αὐτοῦ φιλάσαντες καὶ ἐκκαθήραντες, κατεχρυσοῦσι· καὶ ἔπειτα ἅτε ἀγάλματι χρέωνται, θυσίας μεγάλας ἐπετείους ἐπιτελέοντες.—Melpom. cap. 26. Schweigh. vol. 2. pag. 220. (J. R. P.)

[n] De Anima, cap. 57.

[o] Lib. 15. cap. 5.

it hath no limits of itself, but only what we give to it ourselves by prudence, and necessity, and the nature of the things that are to be done. But in things that are pious and prudent, or that are innocent and indifferent,—a dying father's desire, or a living father's counsel, ought to be esteemed sacred: and though they make no law, yet they pass an indirect obligation; that is, if they be transgressed without reason, they cannot be transgressed without impiety. It is certain, God is pleased with this obedience of piety, as is apparent in the case of the Rechabites; and such actions are exemplar in a family, and make the name of father venerable and sacred. And sometimes the neglect of a dying father's charge hath met with a sad event; and a petulant disobedience hath been a rebellion against the greatest reason, which sometimes is the greater by how much it ought the more to be concealed. Philotimus, of Athens, having observed his son given to amours and wandering fancies, upon his death-bed charged him by all that was sacred and profane, that however he did resolve to please his fancy and satisfy his impotent desires, he should be sure not to court or to fall in love with Pægnium. Philotimus dies, and Philodectes his son, having quickly dried up his tears which were caused by the smoke of the funeral-pile, hath a great curiosity to visit this pretty Greek, that his father had so forbidden to him. He sees her, likes her, courts her, and lies with her; and in the first night of their congress, she, being over-pleased, told him she infinitely preferred his kindness before the dull embraces of his father Philotimus, which had so often tired her. Upon this the young man starts and trembles, and finds his sin and shame, the rewards of an impious disobedience. His want of piety to his dead father made him incestuous in his mixtures and impious in his lusts. —And Pausanias [p], telling of a father who meeting his son in Charon's boat, did then attempt to strangle him, to revenge his impiety and disobedience,—by this does represent, what their sentence was concerning the resentment of rebellion of sons and their undecent stubbornness, even after death.

4. And this is of so much the greater regard, if the father charges it upon the son upon his blessing, and with great imprecations: for then unless the father be evidently a light

[p] Lib. 10.

or trifling person, there is to be supposed some great reason for the imposition, and then nothing can warrant the laying it aside, but a great necessity, or a very great good, and certain reason to the contrary; that is, such a cause as may make the contrary effect to be infinitely unlike any image of impiety or disregard. But of this parents also must be very cautious, and not put a load of duty upon a trifle, that ought not to bear it. For he is foolish, that, upon his blessing, will command his son to make much of his sparrow or his monkey; and that son is prodigal of his father's blessing, that will venture it all to please his humour, and his itch of liberty.

RULE VII.

Neither the Father's Authority, nor the Son's Piety, can oblige them to do an Action against the Laws of God, or of the Father and our just Superior.

1. This rule although it seems to contain in it nothing but what is ordinary and confessed, because God is rather to be obeyed than man, and amongst men the supreme rather than the superior; yet I have here described it, because the explication of it will not only contain one great measure of our duty and conduct of conscience, but it will give the full general proportion of the father's power and the son's piety, and also very much endear the obedience and piety of children.

2. When Bias had discoursed well and wisely, that God was present in every place, he soon after argued weakly; 'If God dwells in all places, his presence makes all places holy, for it is his presence that hallows a temple, and then there can be no such thing as sacrilege; for a thief that robs a temple, cannot carry it out of a temple, but by carrying it into another.' And upon such a trick as this, some in A. Gellius[q] did argue that we were not to obey our parents. For either they command that which is good, or that which is not good: if of itself it be good, then, for its own sake, we are to do it, not for their command; but if it be not good, then

[q] Lib. 2. cap. 7.

though they do command it, it is not to be done at all. For these men supposed, there is necessity and holiness in every lawful action, as the other did suppose there was holiness in every place of God's abode. But this sophistry is quickly discovered. For besides that every thing is not necessary to be done, because it is good, but many are left to our choice to do or not to do them, there are many things also, which are not good in themselves, but only become so, when they are commanded. In both these cases, the authority of our parents is competent. For if they be, in themselves, good, but not necessary,—by the command of our parents they are made necessary, and pass into a law. But if they be not good of themselves, but when they are commanded become good, then also they become necessary. A. Gellius[r] instances, "in militiam ire, rus colere, honores capessere, causas defendere, uxorem ducere, uti jussum proficisci, uti accersitum venire," "to go into the country or to stay in the city, to live at court or to live in your farm, to take up arms or to be a merchant, to marry a wife, and to come when you are called, and to work in the vineyard," these things of themselves are innocent and harmless, but not necessary of themselves; "propterea in ejusmodi omnium rerum generibus patri parendum esse," "in all things of this nature we are to obey our father." But add this also, that if it be of itself a duty, and of that nature that it ought to be done, "sive imperet pater, sive non imperet," "whether his father command or no," yet even here also the father's command is of great authority and great effect; for it adds a new law to the old commandment, and therefore, the disobedience is guilty of a new sin.

3. But in things dishonest and impious, the father hath no authority to give a commandment; and if he does, the children are bound not to obey. If the father commands the son to marry a wife, to plead a cause for the guilty, 'obsequendum est;' there is no more to be said, the father must be obeyed. But if he command the son to marry a harlot, an impudent woman, a drunkard, or to be an advocate for Catiline or Clodius, for Ravaillac or Guido Faux, he is not to be obeyed[s], "quoniam accedente aliquo turpitudinis numero, desinunt esse per sese hæc media atque indifferentia," "When

[r] Lib. 2. cap. 7. ed. Oisel. pag. 128. [s] A. Gell. ibid.

any turpitude is mingled with the action, it is no longer indifferent or subject to command."—And therefore we find Acrotatus commended among the ancients, because when his parents had required of him to do an unjust thing, he answered, 'I know that you are willing I should do that which is just; for so you taught me to do: I will do therefore that, which you desire I should; but what you bid me, I will not do.'

4. And yet if a father commands an unjust thing, his authority is not wholly nothing. For first, though it must not be obeyed, yet it must not be dishonoured, nor yet rejected but with great regard. "Quædam esse parendum, quædam non obsequendum," said some in A. Gellius: "Sed ea tamen quæ obsequi non oportet, leniter et verecunde, ac sine detestatione nimia, sine que opprobratione acerba reprehensionis declinanda sensim, et relinquenda esse dicunt, quam respuenda:"[x] 'What is not fit to be obeyed, must be declined and avoided, rather than railed at and rejected with reproach."—"Etiam in bona causa filii apud parentes debet humilis esse oratio," said Salvian. "When a son denies his father, he must do it with the language of obedience." Such as was the answer of Agesilaus[t] to his father when he would have had him to give judgment against the laws; "A te, pater, à puero didici parere legibus, quamobrem nunc quoque tibi obtempero, cavens nequid faciam præter leges;" "Thou hast from my childhood, O father, taught me to observe the laws; therefore even now also I obey your command, because I take care not to break them." For whatsoever the command be, yet the authority is venerable; if the command be unholy, yet the person is sacred. "Liberto et filio semper honesta et sancta persona patris et patroni videri debet," said Ulpian; "The person of a father is always honest and venerable to the son, and so is that of a patron to his freedman."

5. Though the command is not to be obeyed in things dishonest, yet that then also, the father's authority hath in it some regard, appears by this,—that, if a son transgresses the law by the command of his father, his punishment is something the more easy upon that account, though the offence

[t] Ἀγησίλαος ὑπὸ τοῦ πατρὸς κελευόμενος κρῖναί τινα δικὴν παρὰ τὸν νόμον, Ἀλλ' ὑπὲρ σοῦ (ἔφη) πάτερ, πείθεσθαι τοῖς νόμοις ἐδιδασκόμην ἀπ' ἀρχῆς· διὸ καὶ νῦν σοι πείθομαι μηδὲν παρὰ νόμον.—Plutarch. de Vit. ver. Xyland. tom. 2. pag. 534. E. (J. R. P.)

be great[u]. But if the offence be little, he is wholly excused, saith the law[x]. Thus if a son, by the command of his father, marries a widow within the year of mourning, he does not incur infamy by the law, saith the doctors. "Velle enim non creditur, qui obsequitur imperio patris vel domini," saith the law; and "Venia dignus est, qui obtemperavit," saith Ulpian: "If he did obey the command of his father, he is to be pardoned, it was not his own will;" that is, not his absolutely, but in a certain regard, and in a degree of diminution.

6. The father's authority hath this effect also upon children, that if the father does wrong, the son must bear it, as long as it can be borne: and therefore the son may not go to law with the father, and complain of him to the judge, without leave from both their superiors. For if, by any means, the son can make the father less than he is, it will destroy all duty, and dispark the enclosure, which nature and the laws have made with fear and reverence. But this hath a double consideration, the one in religion, and the other in laws.

7. In religion, we are to consider not only what is lawful in the precise question, but what is to be done in the whole complication and practice of it. For if the supreme can give leave, in some cases, for a son to complain of his father to a judge,—then, in some cases, it may be lawful to do it; that is, in those cases, in which the law hath specified and restrained the paternal power, in those things which the laws call excesses and injuries, and which indeed, in themselves, are cruel and intolerable. For in such cases, the laws are a guard and defence to the oppressed son; concerning whom although it is supposed, that the father takes sufficient care to keep him harmless, yet if the father does not, the law does: and the law does indeed allow the greatest power to fathers, because it presumes it will be for the child's good; but because there are some persons, whom no presumption can measure, who are wicked beyond all the usual temptations and infirmities of mankind, therefore, even in extraordinary cases, there must be some provision; and therefore it is not to be supposed, that it shall for ever be unlawful for

[u] L. fin. de Bon. Damn.
[x] L. Liberorum. sect. fin. et seq. de his qui ap. infam.

sons to complain of their fathers to the prince. But what those cases are, we can be taught by nothing but by the laws themselves, and by our own natural necessities. We must cry out, when we cannot forbear; and we must throw off the burden, under which we cannot stand: only we must not throw it off, as a wild horse does his load, and kick it with our feet, but we must lay it down as gently as we can. Thus if a father refuses to give alimony to his son, who cannot be otherwise provided for,—the aid of the prince, or any superior that can rightly give us remedy, may be implored. If a father beats his child, till he lame or dismember him, or endanger his life,—the son can be remedied, and, without breach of duty, can implore it. So long as a child is in his father's house, and under his father's power,—these are the only causes, in which he can be allowed legally to complain; because, in all other things, he is entirely under his father's power. But when he is emancipated, and quit from his direct authority, which the lawyers signify by the power of 'castigation,'—then the son hath distinct rights, and in them because he can be injured, there are more causes of difference. To this, therefore, the answer is,—

8. That in matters of contract, in little injustices, in any thing that is tolerable, in such things the suffering of which can consist with charity to ourselves, and piety to our relatives, if a son does contest with his father at law, it may be, it is no proper act of disobedience, and there is nothing of rebellion in it against his just authority;—but there is also as little of piety; especially if we consider, that such contests at law are extremely seldom managed with ordinary charity, and never without the greatest reproach on one side, and scandal on both; and if the son can secure that on his own part, yet whether that seeming undutifulness, and more than seeming want of pious and loving regard, may not exasperate the father into angry cursings, and evil thoughts, is a consideration of religion, which ought to be taken care of by all that would be innocent. There is not one of a thousand, that goes to law at all, but he runs into so many temptations, that it is very hard for him to do right, and to do nothing that is wrong: but not one in ten thousand can justify his cause, and his person too, if he goes to law with a father. And he will for no cause suffer wrong at any man's hands,

that will take no wrong of his father; and he that does so, will give but an ill account of his Christianity.

9. And these things appear the more by reason of the open dislikes, which the law professes against such proceedings. For look at this thing in law, and we find that the laws express the son's obedience in universal terms; "Omnibus quæ pater imperat, parendum," "Sons must be obedient to their parents in all things."—Now if the dispute be betwixt our obedience to God, or to our parents, it is an ill case; we know whom we are to obey, but the dispute itself is not good; and the very making a question of either is a disadvantage to the honour of both: and therefore the law, which never supposes a question to be between God and our father, does not think it fit to make this to be any exception to her indefinite terms; and therefore Tiberius said it without a limitation, "Filium non posse detrectare jussa patris;" and Turnus[y] against Tarquin said summarily and clearly, "Nullam breviorem esse cognitionem, quam inter patrem et filium, paucisque transigi verbis posse; ni pareat patri, habiturum infortunium esse," "Between a father and a son the proceeding is short, and the case quickly summed up; either let the son obey, or let him be punished."—And the law accounts it a diminution of such supreme authorities, to have exceptions and reservations expressed in the first provisions of the law; and the very making God and the father to be the opposite and compared persons in the question, is to lessen them both. "In comparatione personarum inest læsio et injuria," say the lawyers; "There is some wrong done when you compare two eminences."—Therefore in this case, if ever any such thing does happen, without dispute we know what we are to do: but it is not good, that the laws should take public notice of it beforehand. But if the question be between the father and the son, the law is so great an enemy to all such questions, right or wrong, that the law judges for the person of the father, even when it does not like the cause. It does so in the case of all superiors in some degree, and therefore much more in the case of fathers. "Jus quod deprimitur, aufertur;" "If you lessen the authority, you take it away;" and then you no injury, though by doing of right. When Accia Variola questioned her father's

[y] Liv. lib. 1. cap. 50. Reperti, vol. 1. pag. 71.

testament, because he had left immoderate legacies to her mother-in-law, the fathers of rich families were present in great numbers, and the sons of those families attended for the sentence in great and anxious expectations, looking which interest should get the advantage. But the judges very wisely left the case undetermined, because it was hard on the father's side; but they were resolved never to leave a precedent, in which the children should be, in any thing, superior to their fathers; or that as Death and Love changed their quivers, so old age should be reckoned as void of counsel, and wisdom and prudence should be the portion of young men.

RULE VIII.

It is not lawful for Children to enter into any lasting Course of Life, against the Will or Approbation of their Parents.

1. This rule contains two great cases. The first is concerning the states of religion; the other is concerning the states of civil life.

2. It is not lawful for children to take upon them any religious vows, or enter into any of those which are called states of religion, viz. to take upon them the state of single life, to be priests, monks, friars, hermits, or any thing of the like nature, without the consent of their parents.

3. Thomas Aquinas entered into the Dominican order, and became a friar without the consent of his parents: and that unjustifiable action begat a more unjustifiable doctrine[z]: "Post annos pubertatis posse liberos se voto religionis obligare, absque voluntate parentum;" "That after fourteen years of age or the first ripeness, it is lawful for children to take upon them the vows of religion, whether their parents be willing or unwilling."—And, after his time, it grew into a common doctrine and frequent practice; and if a monk could persuade a young heir, or a pregnant youth, into their cloisters, they pretended to serve God, though certainly they served themselves, and disserved a family. The ground they went upon was, the pretence[a] of the great sanctity of the state

[z] 2. 2æ. qu. 88. art. 9. [a] Bellar. lib. 2. de Monachis, cap. 36.

monastical; that it was for God and for religion; that to serve God no man that can choose, hath need to ask leave; that if the father be superior, yet God is the supreme; that it is 'corban;' that if the young man or maiden be given to God, he is given to him, that hath more right to him or her than the parents; that religion in all things is to be preferred; and that although the parents have a right over the bodies of their children, yet of their souls they are themselves to dispose, because theirs is the biggest interest and concern: and whereas God hath commanded to 'honour our father and mother,' we know that God is our father, and the church is our mother; and what does accrue to these, is no diminution to the other's right.

4. Against all these fair pretences it is sufficient to oppose this one truth, that 'religion and piety cannot, of themselves, cross each other, but may very well stand together; and nothing is better than to do a necessary duty.' And there needs not much consideration to tell which is better, to make our love to God, and our love to our parents, and our duty to them both, to stand together,—or to fight one with another. God intends the first, that is certain;—for he is not the author of division, nor hath he made one good contrary to another. For if one be set up against another, they are both spoiled. For that duty that goes away, is lost; and that duty which thrusts it away, hath done evil, and therefore is not good. If therefore it be possible to do our duty to our parents and to love God greatly at the same time, there needs no more to be said in this affair, but that we are to remember, that a man may greatly serve God, and yet never be a friar or a priest; and that allowing or supposing that these are great advantages, or rather engagements of duty,—yet it is certain, that no state of perfection can be set forward by doing evil: and he enters ill into the state of perfection, that passes into it by the door of undutifulness.

5. Now then, we are certain of this, that parents have the first right, and the first possession; and that to dispossess any one of his rights against his will is great injustice; and therefore that no end can sanctify it: and that it would be a strange religion, which teaches impiety for pious considerations: and therefore without further inquiry, it follows, that a son may not, upon any pretences of a religious

manner and circumstances of life, subduct himself from his father's power, and put himself under other governments, with which his father shall have nothing to do. A son hath no power over himself, for he belongs to and is under the power of another; and therefore if he does subduct himself, he is undutiful, and impious, and unjust, and does not honour his father and his mother. But he that does persuade the son from his father's house into a monastery, is 'reus plagii,' 'he is a man-stealer.' "Qui patri eripit filium, educatori alumnum, domino servum, Deo efficit impium, educatori ingratum, domino nequam," said Tertullian[b]; "He that debauches a son, a pupil, or a servant, and snatches them from their father, their guardian, or their lord, makes them impious, ungrateful, and vile."—And because this was done by some upon pretence of piety, the council of Gangra[c] forbade it upon a curse: "Quicunque filii à parentibus prætextu divini cultus abscedunt, nec debitam reverentiam impendunt illis, anathema sint." Pretence of the divine service is no good warranty for disobedience to parents; and they who so neglect their father's blessing, will meet with the curse of their mother. And this canon was cited and renewed in the sixth council of Constantinople. The council of Tribur forbids expressly a young maiden, before twelve years of age, to enter into a monastery without the consent of her guardian. Gratian, citing this decree, adds something of his own; for it is not known whence he had it, except from the degenerous and corrupt practices of his own times. "Si vero, in fortiori ætate, adolescentula servire Deo elegerit, non est potestas parentibus prohibendi," "If the young maiden be of great age, the parents have no power to forbid her:" which is a clause which is not to be found in the codes of councils, in any editions old or new. But when monastical life had reputation and secular advantages upon religious pretences, then the advocates and promoters of it were willing, by right or wrong, to set it forward. But the corruption is plain, and apparently against the doctrine and practices of the fathers of the church.

6. St. Ambrose[d] and St. Austin[e] say, that 'a father or mother ought not to hinder a son or daughter from entering

[b] Advers. Marcion. [c] Can. 16.
[d] Lib. 1. de Virgin. [e] Epist. 109, 110.

into a monastery.' But then, things were so ordered, that the entry thither was not a perpetual bond, but a going thither as to a Christian school, a place for institution and holy practice, and from thence they might return when they would, they might serve God and their parents too: the profession of a monk was then nothing else but "priscæ liberæque vitæ ac pure Christianæ meditatio[f]," "a meditation and institution of a Christian life according to the rate of the primitive simplicity," liberty, and devotion. But besides this, though they exhort parents not to hinder their children, yet they affirm they have power to do it, and they may, if they will; as appears amply in St. Austin's epistle to Ecdicea, and in his two hundred and thirty-third epistle to Benenatus. But most plainly and dogmatically it is affirmed by St. Basil[g]; "Liberos non esse recipiendos in monasteriis, nisi à parentibus suis offerantur;" "Children are not to be received into monasteries unless their parents present them:" and when St. Gregory Nazianzen had, against his father's commandment, run into a monastery, he began to bethink himself what he had done,—and found, that, without impiety, he could not be contumacious against his father; and therefore left his solitude and returned home. "Et hoc" (saith he) "jussu Dei magis quam hominum metu. Itaque, O pater, dicto jam audienti præbe benedictionem." This he did in obedience to God, and not for the fear of men; and therefore upon the account of his obedience and return, he begged his father's blessing. But besides this, there were two remarkable examples which abundantly conclude this duty. The one was of Heliodorus, who together with St. Jerome had undertaken a monastical life by vow; but finding, that, by piety and nature, he was to regard his only sister and her son, he returned to her house, and took upon him the habit of the clergy, and left that of monks. Against him St. Jerome, who was then a young man, newly come from the university and the schools of rhetoric, storms very much,—and says some things, which, when he was older and wiser, he changes and revokes, as appears in his epistle to Nepotian, where he imputes his former sayings to his juvenile years and learning. Now though Heliodorus had no parents, when he undertook a monastical life, and there-

[f] S. Aug. epist. ad Bonifac. Comit. [g] In Quæst. fuse Explic. p. 15.

fore had his liberty; yet it is therefore certain, he believed he ought not to have done it without the consent of parents, if they had been living,—because he did suppose a less piety, even to his sister and his nephew, to be a sufficient reason for him to leave his solitude and show piety at home.—But the other instance is more material. Stagirius was made a monk, not against his father's commandment, but against his counsel. The father was very unwilling; but durst not expressly forbid it, upon some scruples, which were put into his head by the humours, which were then beginning. But because he had neglected his father's counsel, and caused trouble to him, Stagirius was vexed with the devil, and St. Chrysostom[h] took great pains to comfort him. But afterward the manners of men grew worse, and all religion was enclosed in a friar's habit, and it grew to be esteemed excellent to enter into a monastery; and whatsoever did hinder it, was to be despised, or used like a temptation; and the orders of religion grew potent, and prevailed over private interests and private religion, and by degrees it entered into insufferable mischiefs and impiety. It was sometimes restrained by good laws, so that it could not grow so fast. Charles[i] the Great made a law concerning it: "De pueris vero sine voluntate parentum ut tonsurentur, vel puellæ velentur, modis omnibus inhibitum est," "Boys must not be shorn nor maidens veiled without the consent of their parents."—And to the transgressors of this law a fine was imposed, the same with that which was appointed in the Salic law[k]; which did equally forbid them to be slain and to be shorn. For by religious pretences not to do kindness to their parents, our blessed Saviour called hypocrisy in the Pharisees; and therefore, upon the like pretences, to do them wrong, to take their right from them, to dispossess them of their dearest pledges, must needs be so much the worse. It is that which our blessed Saviour calls 'hypocrisy,' and 'dishonouring our parents:' it is that which the church does call an 'anathema;' which the laws call 'plagium,' or 'man-stealing:' it is 'homicide' in the account of the imperial laws: and St. Bernard calls them 'wolves' that do it, in his

[h] Lib. de Providentia.
[i] Lib. 5. cap. 95.
[k] Tit. de iis qui pueros vel puellas occiderint, vel totonderint.

first epistle,—which, as the story runs, was not written without a miracle.

7. The other great case is in the marriage of their children, concerning which the sentence is ready and acknowledged in the greatest part of it.

It is unlawful for children to marry, without and against the consent of their parents.

That such marriages are not 'licitæ,' is confessed on all hands; that is, the son or daughter sins against God and the laws, by marrying against the father's commandment.

> Adeon' impotenti esse animo, ut præter civium
> Morem atque legem, et sui voluntatem patris,
> Tamen hanc habere studeat, cum summo probro?

said he[l] in the comedy: 'It is dishonourable, and a shame, to take a wife against the will of his father; it is against the manners and the laws of all republics.' But whether they be 'legitimæ' or no, is a great question; that is, whether they be wholly invalid and null in law,—or in case they be valid, whether or no they suffer any diminution, and what it is.

8. Among the ancients, and for a long time in the civil law, such marriages were esteemed 'illegitimate,' and no better than a mere concubinate. So Ovid[m] intimates in the marriage of Pyramus and Thisbe:

> ——— Tædæ quoque jure coissent,
> Sed vetuere patres ———

'If the parents had not forbidden, the marriage had been legitimate;' but therefore not then, when they are forbidden: and therefore as incestuous marriages were not only impious but null, they are not only sinful in the entry, but all the way; so are these, alike evil in all the progression, though, as yet, they have not a proper name in law, as the other have. But Apuleius[n] is more express; "Impares nuptiæ, et præterea in villa sine testibus et patre non consentiente factæ, legitimæ non possunt videri, ac per hoc spurius iste nascetur:" "Unequal marriages, clandestine, and made without the father's consent, can never seem legitimate, and therefore the children that are born, will be illegitimate." And Musæus[o] observes

[l] Terent. Andr. v. 3. 8. Westerhov. vol. 1. p. 196.
[m] Met. iv. 60. Gierig, vol. 1. p. 248. [n] Lib. 6. de Asin. aureo.
[o] 278. ed. Mœb. pag. 13.

in the marriage of Leander, that it was ominous and unlucky upon this reason, because

Οὐχ ὑμέναιον ἆεισε πατὴρ καὶ πότνια μήτηρ,

"The father and the mother did not sing the hymeneal or marriage song." The same thing was observed also by the Christians; for when Tertullian[p] is recounting the auspicious signs and causes of a blessed marriage, he puts this in, "Unde sufficiam ad enarrandam felicitatem ejus matrimonii quod ecclesia conciliat, et confirmat oblatio, et obsignatum angeli renunciant, pater ratum habet?" "That marriage will be very prosperous, which is blessed by the church, made solemn by publication and the rituals of religion, and established by the consent of the father." For without it, it is not only inauspicious and unlucky, but illegal, unfirm, and insufficient. "Nam nec in terris filiæ sine consensu patrum rite et jure nubent," saith he[q]. For he lived in a time, when the law pronounced such marriages illegal, and the children bastards. For as some contracts are invalid, unless the solemnity of the law be observed, and testaments are ineffective without such a number of witnesses; so the law requires the consent of parents to make the espousals to be a legal and a valid contract. "Non videri justum filium, qui ex eo matrimonio natus est, cui pater non consensit," said Paulus[r] the lawyer: and this went so far, that if a daughter were exposed by her father like a child of the people, and no care of her education or alimony taken, yet, before the time of Constantine, that daughter might not marry without the leave even of that unnatural father. And amongst the children of Abraham this was so sacredly observed, that even there, where, by the event of things, we perceive, that the marriage was designed by God, yet it was not to be acted but by the father's willingness; as appears in the cases of Isaac and Rebecca[s], Samson and his wife at Timnath[t]. Thus Agar took a wife for her son Ishmael, and Jacob went into Mesopotamia for a wife by the consent of his father and mother; and Sichem asked of his father Hamor that he would get him the daughter of Jacob to wife. And the words of the law[u] were directed

[p] Ad Uxorem.
[q] Ibid. lib. 2. in fi.
[r] Ff. de Statu Hominum.
[s] Genes. xxiv.
[t] Judges, xiv. 2, 4.
[u] Exod. xxxiv. 16. Deut. vii. 3.

to the father, not to the son; "Non accipies uxorem filiis tuis de filiabus eorum, et filiam tuam non dabis filio ejus;" and in the New Testament, "he that giveth his virgin in marriage, doth well [x]:" still it is the parent, that hath the right and the power; it is the parent, that can make the contract; he is the person supposed only competent in law.

Νυμφευμάτων μὲν τῶν ἐμῶν πατὴρ ἐμὸς
Μέριμναν ἕξει, κ'οὐκ ἐμὸν πρόσω τάδε,

said Hermione [y] in Euripides; "My father is to take care of my espousals; that is no part of my care or determination." —And St. Ambrose [z], by the example of Rebecca, said, that 'the choice of a husband for his daughter is to be permitted to the father.'

9. And indeed, by these instances and the perpetual practice and persuasion of the old world, we cannot suppose it to be less than a natural law, or a natural reason, of great effect, or of great necessity. When the daughter of Cyaxares was asked, whom she would marry, she answered 'Cyrus;' for, when they were children together, he had delighted her with pretty songs and conversation: and when she was offered to him with a royal robe, jewels, and a crown of gold, and all Media for her dowry, Cyrus answered, "Et genus et puellam et dotalia laudo," 'I like the lady, her dowry, and her family,' but I must have these agree with the mind of my father and my mother, and then I will marry her [a]."—For (as Panægyris in Plautus [b] told his sister) "in patris potestate esse situm liberorum matrimonium, quibus faciendum hac in parte sit quod patres imperant;" "Children's marriage is in the power of their father, and they must do what their father commands."—And Simo would not allow Pamphilus to call him 'father,' when he disobeyed him in this particular;

Quid, 'mi pater?' quasi tu hujus indigeas patris.
Domus, uxor, liberi inventi invito patre.

[x] 1 Cor. 7. [y] Andromach. 979. Priestley's edition, vol. 4. pag. 116.
[z] Lib. de Patriarch.
[a] The original words are:—τό τε γένος ἐπαινῶ καὶ τὴν παῖδα καὶ τὰ δῶρα· βούλομαι δὲ, σὺν τῇ τοῦ πατρὸς γνώμῃ καὶ τῇ τῆς μητρὸς ταῦτά σε συναιρῆσαι: Cyrop. viii. 5. 20. Schneider, pag. 624. (J. R. P.)
[b] The original runs thus:
Neque est cur nunc studeam has nuptias mutarier.
Verum postremo in patris potestate est situm:
Faciendum id nobis quod parentes imperant.
Stich. i. 2. 51. Ernesti, vol. 2. pag. 344. (J. R. P.)

But Pamphilus, in despite of his passion, suffered his duty to prevail.

> Tibi, pater, me dedo: quidvis oneris impone, impera.
> Vis me uxorem ducere? hanc vis amittere? ut potero, feram[c].

Pamphilus offered to quit Glycerium, if his father pleased, and yet he had been contracted to her, and had a son by her. Certain it is, these contracts were, to all purposes, invalid by the civil law both of the Greeks and Romans. "Nuptias consistere non posse nisi consentiant omnes, hoc est qui coeunt, quorumque in potestate sunt," saith the law[d]; and in the Jus Græco-Romanum[e] there is an express canon, "qui in aliena potestate sunt, eorum pacta nihil habent firmi: propterea quæ citra voluntatem nuptiæ fiunt eorum, penes quos potestas est, pro scortationibus habentur:"— This is peremptory. Such marriages are fornications, and therefore the children are bastards. And of this Justinian gives this account; "'Justas nuptias inter se contrahunt qui secundum præcepta legum coeunt,' 'Those marriages are true, which are confederated according to the precepts of laws,' when the contractors are of fitting age, whether they be the chief, or the sons of families. Only if they be sons of families, they must have their consent in whose power they are: 'Nam hoc fieri debere, et civilis et naturalis ratio suadet, in tantum ut jussus parentum præcedere debeat;' 'For that this ought to be done, that the father's consent must be before the marriage, not only is concluded by civil or political reason, but also by the natural.'"

10. Thus it was in the natural and in the civil law; and at first, and for a long time after, it was no otherwise in the canon law. To this purpose is that famous decree of Pope Evaristus[f]; "Aliter legitimum non sit conjugium nisi ab iis qui super ipsam fœminam dominationem habere videntur, et à quibus custoditur, uxor petatur, et à parentibus et propinquioribus sponsetur, et legibus dotetur." Evaristus had enumerated a great many things which were fit (as he thought), and much for the honesty and decency, the blessing and prosperity, of the marriage; as attending to solemn prayers for two or three days, oblations and bride-men, and some

[c] Andria. act. 5. sc. 3. 19. [d] Inst. de Nuptiis ff. de Ritu Nuptiarum.
[e] In Respons. Matrimon. Matt. Monachi. [f] Et habetur 30. q. 5.

other things which are now out of use: he proceeds to that, which was essential to the contract,—the consent of parents: —and "aliter legitimum non sit," "it cannot otherwise be legitimate:" and he adds, "Aliter vero præsumpta non conjugia, sed adulteria, vel contubernia, vel stupra aut fornicationes potius quam legitima conjugia esse non dubitatur;" "Marriages, without the consent of parents, are adulteries and ravishments, fornications and concubinate, any thing rather than marriages."—To this accords that canon [g] of St. Basil: "Puellis, quæ præter patris sententiam, fornicatores secutæ sunt, reconciliatis parentibus videtur res remedium accipere: sed non protinus ad communionem restituentur, sed triennio punientur:" "If fathers will pardon their daughters, that without their leave run after wanton persons, their crime, as to him, seems to be taken off; yet let them be put for three years into the station of penitents."—Upon this canon Theodorus Balsamon says, that "by 'puellis' or 'girls,' St. Basil "means those, that are under their father's power: and that if any such give themselves to their lovers, without their fathers' consent, and are dishonoured, although they to themselves seem to be married, yet such marriages are not valid, they cannot stand: and for this there is no remedy but being reconciled to their fathers." But St. Basil is also as express himself in the text, as Balsamon in his commentary; for in his fortieth canon he says, that "marriages, without the consent of them in whose power they are, are fornications and not marriages." And therefore the council of Carthage requires, that, when the bridegroom and his bride are to be blessed by the priest, that is, solemnly married, they should be presented to the priest by their parents or their deputies; which thing is carefully to this day observed in the church of England. For according to the saying of St. Leo [h], "paterno arbitrio fœminæ viris junctæ carent culpa;" if maidens be joined to their husbands by the consent of their parents, there is then nothing but innocence, nobody hath cause to complain. But that is not all. For Gratian, expounding these words, says, that from hence "datur intelligi, quod paternus consensus desideratur in nuptiis, nec sine eo legitimæ nuptiæ habeantur," "we are given to understand that the fathers' consent is required, and without it, the marriages are

[g] Can. 38. in can. Patrum. in Græcor. Nomocan. [h] Et habetur 32. q. 2.

not to be accounted legitimate:" and for it he quotes the words of Evaristus before mentioned. But the council of Aquisgrane did not only separate such marriages, when the maiden was stolen away without her parent's leave but would not allow, that, ever after, they should be man and wife, as we find in Burchard; and the same was verified in the council of Melda[i], which, for its warrant, quotes a synodal definition of St. Gregory to the same purpose.

11. The church was indeed very severe against such undutiful proceedings and rebellions against the supreme natural power; and therefore the council in Paris, and divers others[k], did anathematize them that so married, and even when they were reconciled to their parents, did impose on them severe penances. But because when things were once come to that pass, fathers perceived that the reputation of their children was lost, and that it was not easy to get other honest matches for their children,—and especially when marriage began to be called a sacrament, and some scruples were by the clergy cast into this affair,—and because men were willing to make the best of a bad market; the fathers gave over making use of this power given them by the laws, and thought the public penances were castigation sufficient. But then, according to the nature of all good laws and manners running down the hill, this thing never left running till children had leave to despise their parents, and marry where and when they pleased; and though it was said to be a fault, yet "factum valet; fieri non debuit,"—it was decreed in the council of Trent to be valid and effectual.

12. But now this sentence, which indeed relies upon some reason and very great authority, and is wise and fit to prevent much evil in families,—is yet very severe, and ought to receive some allay: which when I have represented upon the general consideration, I shall endeavour to give it a right understanding, and describe the truth that lies between the two extremes, and was yet never affirmed and described by any one that I know of, but is determinable by a just weighing of all that, which very many wise men have said, being put together.

[i] In tit. de Fœmin. non Consecrat. cap. 33. 36. q. 2. placuit.
[k] Ibid. Vide etiam concil. Paris. 36. q. 2. 27. q. 2. nullus.

13. First therefore I consider what Quintilian[l] said: "If it be lawful, at any time, for a son to do an action, otherwise irreprovable, without the consent of parents, certainly liberty is in nothing so necessary as in marriage:"—"Ego eligam cum qua victurus sum, ego comitem laborum, sollicitudinum, curarum, ipse perpendam. Quis enim amare alieno animo potest?" "It is fit that I should choose her or him with whom I must always live, the partner of my joys and sorrows, the companion of my cares, the father or the mother of my own children: for it is impossible that a man should love with any affections but his own." And if Pamphilus can love none but Glycerium, it will be hard for Simo, whose fires are extinct by age, to command his son to burn and pine away without remedy and pity. It was better which Pausanius[m] tells of Danaus, that he gave his daughters leave to choose their husbands; and Herodotus[n] tells that Callias the Athenian was much commended by the Greeks because he permitted to his daughters to choose what husbands, not he, but themselves liked best.

But the case is to be determined by these three propositions.

14. 'When sons or daughters are of competent years and have the use of reason, they can naturally contract marriages;'—that is, there is nothing naturally required but that they can consent, and be of a marriageable strength. "Sufficiat solus consensus illorum, de quorum quarumque conjunctionibus agitur," said Clement III.[o]; "Consent alone makes marriage;" that is, it makes marriage naturally valid, if it be done by those persons who naturally can consent. For that the consent of parents is not essentially necessary to the validity of the contract naturally, appears in many instances. 1. Because children can contract, when their parents are dead. 2. Because if their father be dead, and their mother living, the son that is of years of discretion, is not under his mother's power as to that, but that, upon great and good reason, he may marry by his own choice. 3. A son may marry at the command of a prince, when it is for the public good, though, his father, at the same time, regard nothing but his private. 4. If a father say nothing to hinder it

[l] Declam. 257. 376. [m] Lib. 3. in Laconic.
[n] In Erato, lib. 6. cap. 126. Schweig. vol. 3. pag. 128.
[o] Cap. Tum de Spons. extr.

though he be secretly unwilling, or owns the unwillingness, but behaves himself negatively, as to any co-operation, yet the son may marry: which demonstrates that the father's consent is no active principle, ingredient into the marriage, but a privative or a negative only; that is, he can forbid it, and so hinder it, but it is not therefore naturally invalid; that is, he can legally prevent it, but not naturally annul it. 5. If the marriage of the son be not only of regard and advantage to the son, but so far from doing injury to the father, that it does him honour;—the laws declare, that such a marriage is valid, though the father, out of humour, disagree. And therefore when the law says, that the son cannot contract marriage but with his father's consent, the doctors limit it amongst other cases to this especially, "quando filius duceret uxorem turpem et indignam," "when the son marries dishonourably;" for then, say Bartolus and Decius [p], there is injury done to the father: so that the prohibition lying for this reason, when the case is contrary to the reason, the extraordinary effect must be contrary to the ordinary law. 6. Whatever the law decrees in detestation of children's disobedience, yet the marriage, though to some civil effects it is nulled, yet that it is naturally valid appears in [q] this,—because the son, that is born of that marriage, is the grandfather's own, and if the father die before the grandfather, the grandchild must inherit. So that the punishment is but personally on the son, and is not a perfect invalidating of the marriage. And this very case was determined in the parliament of Harlay in behalf of Marguerite de Nesdes's children, the nephews of her husband's father, in the year 1584. 7. If the father is unreasonable, and offers to his son or daughter an ugly, a deformed, a vicious, or a base person, and gives him no other choice, and the son cannot contain and live a single life, by the consent of all men the son may refuse, and he cannot but choose another. 8. The same is the case, if the father be negligent; then by the law [r], a son sooner, and a maiden after twenty-five years of age can choose for herself. "An sedere oportuit domi virginem tam grandem?" said Phalaris [s]. *Πᾶσι γὰρ ἀνθρώποις αἴσχιστον δέδοκται, καὶ νὴ Δία ἐστὶ, παρὰ τοὺς φύσεως χρόνους θυγάτηρ*

[p] Vide Ascanium Clement. Amerin. de Patria Potest. cap. 6. effect. 6.
[q] Lib. Divi Fratres. ff. de Jure Patron.
[r] Lib. Filius 25. ff. de Ritu Nuptiarum. lib. 3. sect. Emancipatus. ff. de Cont. Tab.
[s] Phalar. epist. 143.

οἰκουροῦσα. "For it is intolerable that a maid should be suffered to pass the flower of her age at home." And when the Gemara Sanhedrim [t] had said, "Do not prostitute thy daughter, to make her a harlot," Rabbi Eliezer said 'this was spoken to him, that marries his daughter to an old man.' R. Akiba says, 'it was meant of him qui domi retinet filiam nubilem, that keeps his daughter at home too long.' Which two last cases, relying upon the same reason, produce the same effect,—that the father's consent, though highly to be required, yet is not essentially necessary; it may be a valid marriage without. 9. And this is also true in case of emancipation [u], or quitting the son from the father's power; he is 'sui juris,' and can marry where he will: and yet he owes to his father all the obedience, to which, by the law of nature, he was obliged. 10. If a son marries without his father's consent, the law says it is void; but yet it is not so void, but that the father's approbation makes it valid without marrying again, which could not be, if it were naturally invalid, but therefore it is both naturally and ecclesiastically good. "Quod enim ab initio male factum est, parentum postea consensus reparare videtur," said Balsamon [x]: "It was ill done at first, and the father's consent repairs the damage: but if it was invalid and null at first, nothing can make it alive upon the first stock. "Quod enim ab initio non valuit, progressu temporis valere non debet," saith the law. 11. Servants or slaves, in the civil law [y], were as much in the power of their lords as sons in the power of their fathers; as much, I say, though not for so many reasons: and yet the marriage of servants was valid in law, though contracted without the consent of their lords; as Pope Alexander III. wrote in a decretal epistle to the Archbishop of Canterbury: and therefore that the marriage of sons and daughters may be so too, that is, not to be dissolved, not to be declared null in conscience, I can find no reason to the contrary. 12. We find in Scripture, that Esau's marriages were valid and went on, though contracted against the interest of that family, the pleasure of the parents, and, as Lyra says, without their consent. It is true

[t] Cap. 9.

[u] Ulpian. lib. 3. sect. Si Emancipatus. ff. de bonor. possess. contr. tabulas. Hoc observant Græci ad lib. 10. de Sponsal. lib. 28. Basilic.

[x] Tit. 1. in can. Basil. 38. In can. Pp.

[y] Cap. 1. extra. de Conjug. Servor.

indeed that the Jerusalem Targum says that they were a grief to Isaac and Rebecca,[s] because they were undutiful, and proud, and idolatrous, refusing to be taught by their husbands, father, or mother. But when I consider, that it is not only affirmed by Rebecca, that they were an affliction to her, but observed at the very first taking of them in, that they were a grief to both of them, and that Esau afterward, to gratify his father, did marry his cousin-german, the daughter of his uncle Ishmael; the opinion of Lyra seems most probable, and that Isaac and Rebecca did not consent, and were not pleased with those first marriages. But if this should fail, there are arguments enough besides to evince, that naturally such marriages are valid, though, at no hand, they ought to be done.

15. But what then shall we say to all the former discourse, which proved that those marriages were illegitimate, and the conjunctions no better than concubinate? does all that heap of things, and sayings of wise men, and laws ecclesiastical and civil and natural, effect nothing? or do they prevail entirely? that they effect something, their own strength does evidence; that they do not prevail to effect a natural nullity in marriage, the contrary arguments, described in the former number, do sufficiently prove. What then is the conclusion?

16. From hence we may learn it. "Although the marriage is naturally valid, yet that natural validity can have this effect only, that it can for ever bind the conscience of the engaged parties to faith and mutual love, and to cohabitation when it is not hindered;—and it is, even when it is most of all forbidden, yet potentially legitimate,—that is, it wants no features and lineaments, nor life, but it wants solemnity and publication; that is, it is like an embryo in his mother's womb, there it must stay till the law gives it name and birth. For it is to be considered, that although the young folks can contract even against their parents' will, yet they can be hindered from possession: not only because natural rights can be impeded in their use and challenge by the supreme civil power; but because there is in marriage something, that is wholly in the power of the civil law. For in marriage there are three things, unity, and society, and mystery. This last is not of present consideration, because it is wholly of

[s] Gen. xxvi. 35.

spiritual nature, and therefore of ecclesiastical cognizance. But of the other two, the first is in the power of the contractors, the latter is in the power of the commonwealth. From union of minds, and obligation of mutual duties and affections, and perpetuity of relations they cannot be kept by their dissenting parents, or by the civil law. But from being a society, from beginning a legal family, from rights of succession, from reckoning descents in their line, and from cohabitation, they can be kept by that power, which is the supreme in the establishment and conduct of all societies. And the consequent of this will be, not only that such persons shall lose all civil benefits and profits of inheritance, that is, all that can come from society, but even their very unity will be disparaged, so as it shall be esteemed no better than fornication; not that it is so before God, or is against the virtue of chastity, but that it is so in the civil account, and is against the laws of marriage. It is in this, as it is in the case of 'raptus' or 'ravishment.' In the civil law[a], he that takes away a man's daughter without the consent of her parents, 'rapuisse dicitur,' 'is a ravisher:' but it is not so in the canon law, it is not so in nature or conscience. "Raptus ibi dicitur admitti, ubi nihil ante de nuptiis dicitur:" "If there was no treaty of marriage, it is a rape;" but if the man was secretly betrothed, to carry her away and lie with her is no rape, "licet parentes reclamarent," "although the parents were against it," said Pope Lucius III. Now to call this a rape, and to punish it as if it were, is in the power of law: just as the stealing of a knife out of a church, or a chalice out of the clerk's house, may, by law, be called sacrilege; and then it is so to all the purposes of law; though, before God, it may not differ from simple theft. So for young lovers to lie together before publication, is, by the canon law, called 'antenuptialis fornicatio,' and is punished as if it were so indeed: and yet though it be evil in the eye of men, and upon that account is so in itself, yet in the eyes of God it is not fornication; God himself[b] having expressly called a 'betrothed woman' by the name of 'wife,' and punished her falsehood to her husband before marriage with the same evil as adultery. And thus it is in the present inquiry: marriage of persons in minority is naturally invalid, because they are

[a] Cap. Cum Causam. de Rapt. extra. [b] Deut. xxii.

naturally unable to make a contract for their good, they understand it not; but if they be of good years, though under their father's power, they are naturally able, but politically unable, and therefore are inevitably engaged in an evil condition, and they have sinned, and it is a miracle if they do not sin again, and abide in it upon this account. For the marriage is good within doors, but it is not good abroad: they are both obliged, and yet cannot pay their obligation: this marriage is not good in law, and yet they cannot choose another in conscience: it was by their own fault, and therefore they must bear their own burden: they are guilty of fornication, but it is not a sin against the seventh commandment: they have not dishonoured their own bodies between themselves, but they have dishonoured them before all the world besides. And as 'covetousness' is 'idolatry,' and 'rebellion is 'witchcraft,' so this 'disobedience' is 'unchastity;' it is, 'uncleanness,' against the fifth commandment: and therefore it is no legal marriage, but unlawful at first, and remains so all the way, till a legal remedy be found out. For this thing is rightly stated by Paulus[c] the lawyer: "Matrimonia hæc jure non contrahi, sed tamen contracta non solvi;" "Such marriages ought not to be made, but, being made, they cannot be dissolved." And he gives an excellent reason for it; "Contemplationem enim publicæ utilitatis privatorum commodis anteferri:" "It is of public concern, that marriages, naturally valid, be not rescinded;" but it is but of private emolument, that the father should be pleased in his daughter-in-law: and therefore, although the law[d] of God and man do their several shares for the securing of every interest and concern, yet that regard, which is greatest and more public, is to be preferred. Now for the understanding of the full effect of this, and for the verification of it, it is to be considered, that laws are called 'perfect,' or 'imperfect.' A perfect law[e] is that, which, either in itself or by the magistrate, rescinds whatsoever was done against her prescript. The imperfect law is that, which does not indeed rescind the thing, but inflicts a punishment upon the transgressors: such as was the 'lex Furia testamentaria,' and such as is the law concerning these forbidden marriages against their fathers' will; the

[c] Lib. Sentent. 2. tit. 19. Idem dixit vetus scholiastes ad Paulum.
[d] Exod. xxii. 16, 17. [e] L. Non Dubium, C. de Legib.

marriage must stand, and the married must lie under the punishment[f]: they, in the civil law, were reckoned as concubines, and their children bastards, and there was neither dowry nor marriage allowed. And upon this account, all those sayings, which I brought in the former numbers, are true: the marriages were then civilly null, that is, in estimation of law, and to all intents and purposes of law were outlawed, and made incapable of civil benefits and advantages; but the law could not make them naturally null: and in the law of Moses[g], although a maiden that had been humbled, was to become the wife of him that did it, and to have her dowry accordingly, if her father pleased, and he might choose whether he would or no;—yet there is no footstep or sign, that if he had betrothed himself unto her, and lain with her, that then she was not his wife, or that her dissenting father could make it null. Indeed, divorces were so easily granted then, that, even in this case, they had a remedy at hand: but we are tied up by stricter and more holy bands; and since Christ reduced it to the first institution, and that it was made to represent the union of the church unto him, it is not so easy to untie this knot. So much as is in the power of law, so much is fit to be done for the securing the father's authority and his rights according to the interests of religion and the public: but the laws themselves have a limit; and though they can verify all their own acts, yet they cannot annul the act of God: "Quæ Deus conjunxit, nemo separet." Conjunction of marriages is by a law of God and nature; and to it nothing is required but a natural capacity and an explicit consent, and therefore this no man can separate. But yet,

17. The father hath over his children a double power; a natural power and a political.—His natural power is entire, absolute, and unlimited, except where the law of God or of nations does intervene; but then it lasts, but till the children are able to understand and choose, and shift for themselves. For there are some natural and personal rights relating to duty, to the perpetuating the kind, to defending and providing for themselves, which are not to be taken from us, unless they be as well or better supplied otherwhere; for

[f] O sententiam necessitate confusam! parcit et sævit, dissimulat et animadvertit. Tertull.

[g] Exod. xxii. 8—11.

some can, and some cannot. The desires relating to marriage have in them so much natural necessity, and so much relation to personal duties, that either they must be in our own powers, or else our salvation must depend on other men. "Nescis nostri arbitrii esse matrimonia? Affectus nostri non serviunt. Non potes efficere imperio, ut vel amem quam velis, vel oderim. Matrimonium vero tum perpetuum est, si mutua voluntate jungitur. Cum ergo quæratur mihi uxor, socia tori, vitæ consors, in omne seculum mihi eligenda est[h]." My wife is to dwell with me for ever, the half of myself, my lasting joy, or my lasting sorrow; and if I do not love her, we cannot live comfortably: and to love I cannot be commanded, for my affections are not at my own command, much less at another's; and therefore the conduct of this belongs to myself, and to none else, for so much of the interest as the union and conjunction comes to; and in this I am no man's subject, when I am a man myself.

18. But the father hath a political power; "Patria potestas est jus quoddam, quod habent, qui sunt de imperio Romano, in liberos naturales et legitimos," say the lawyers[i]. The paternal power is defined by the measures of the Roman law; and so it is in all countries by their own measures. Now, in most countries, especially of old, the father had so much power given to him over his children, that they were a part of his possessions; they acquired what they did acquire, for their father, not for themselves; they might be pawned, they might be sold three times for their father's profit; they must last and abide under this power, till they were dismissed or emancipated by their father. Now whatsoever rights were consequent to these powers, were so wholly to be disposed of by the father, that whatsoever actions of the son did destroy those rights, were, so far, and in relation to those rights, null and invalid. When therefore the father had, by the civil law, a power over the person of his son, so as to have the profit of his labours, the issues of his marriage, his children to succeed, the son's wife to be partner of his goods and his holy rites, and to perpetuate his family,—he had, by the civil law, power to dispose of him so far as con-

[h] Quintilian declam. 376.

[i] Sect. jus. autem potestatis. Inst. de potest. Patr. et lib. nam in civium. et lib. item in Potestate. ff. de his qui sunt sui et alieni juris.

cerned these things, but no further. And therefore the father had power to disinherit the son, that married without his father's leave; and all the emperors, and all the lawyers, till the time of Constantine, did allow it; but then it felt variety and change, and it was limited to the case of the son's marrying dishonourably.

19. The result of these three propositions is this, that every commonwealth hath power to extend or to straiten the father's political power, and to give sentences and judgments upon the actions, that relate to such power: and if the law does declare 'the children of marriages against the parent's will, to be bastards,' they are so; and 'the son not to succeed in his father's estate,' it must be so;—and 'the marriage to be a concubinate,' it must be accounted so;—and 'the conjunction to be uncleanness,' it must be called dishonourable, and may be punished as if it were so:—and this must last so long, till the son be, by the same law, declared not to be under his father's power as to that particular; and when it is so, he can then choose for himself without fraud or detriment; though even then also he hath upon him two bands, 'reverence' and 'piety,' from which the son can never beemancipated as long as he lives, and as long as he can beobliged to be a thankful person;—ever remembering what the old Sybil said, that they deserve damnation,

——— quive parentes
In senio linquunt, neque præmia digna rependunt
Pro nutricatu, vel qui parere recusant,
Aspera vel contra dixerunt verba parentes,

"who leave their parents in their old age, who speak words against them, who do not pay their thankful duty for their alimony and education, and who refuse to obey them," viz. according to the laws, and according to the exigence of reverence and piety, which must be for ever.

Of Exemption from the Power of Fathers.

20. For, by this means, we shall, the shortest and truest, answer the inquiry, when a son is free from his father's power, and how long he is, τῆς πατρονομίας ἀνάγκαις ὑποκείμενος, as Demosthenes's[k] expression is, "subject to the necessity of the father's laws."—I answer, that, in those things,

[k] In Encomio.

which are parts of natural power, and relate to personal duties, the father hath always a power of counsel, which must be regarded by the ties and analogies of reverence and piety, and the reasons of the things themselves. But in those powers, which the law hath given him, he is to abide in them as long as the law permits; for in this there is no other measure but the law. But in these and all other things whatsoever, when, by nature and the laws, we are quit from the empire of the father, and that power which is called 'castigation,' or the power of command and coercion, we are still tied to fear him with a reverential fear, and to obey him with the readiness of piety in all things, where reverence and piety are to have regard and prevail;—that is, wherever it is possible and reasonable to obey. "Quæ prærogativa ex beneficentia acquiritur, perpetuo durat," said Aristotle; "The authority that is acquired by bounty, is perpetual."

21. And therefore, even marriage itself does not quit the children from their duty: not only by force of civil laws, in which sense the son's wife was in the father's power, as well as the son himself till he was emancipated; but I mean it in respect of reverence, and pious regards, and natural duty, and humble observation. For "nomen patris grande mysterium est, et nomen matris arcana reverentia," said Origen[1]; "there is reverence, and there is mystery, and all sacredness, in the names of father and mother;" and that dignity lasts for ever. The ancients tell, that, when Danaus, who had given liberty to his fifty daughters to marry according to their own liking, was compelled to give them to the fifty grandchildren of Ægisthus, he gave to each of them a sword, and commanded them to kill their husbands the first night before their congress; and they thought themselves, though married, obliged to obey their father, and all did so, but Hypermnestra, who, for her disobedience, was questioned upon her life, and was, by the equally-divided sentences of the judges, acquitted. The like story to this is told by Chalcondylas, that a daughter of a Florentine physician, being, by the public request and necessity of the town, given to Lantislaus an amorous prince, who to get her, besieged the town, her father gave her a poisoned handkerchief, which he commanded her to use upon the prince; and she did so,

[1] Homil. 11. in Levit.

and upon herself,—and both died. These indeed were excesses of power and obedience: but I noted them to show, that the sense of the world is to suppose children obliged to their parents, even when they are in the power of a husband, or in necessitude and conjunction with a wife. And this is extended also to daughters, that are widows, if they be in minority, that is, under twenty-five years, for so it was in the Roman law[m]; or, if, under any other number of years, which the law calls minority in any government. Ἡ ἐλάττων τῶν εἴκοσι πέντε ἐτῶν αὐτεξουσία μέλλουσα δευτερογαμεῖν, γνώμῃ τοῦ πατρὸς γαμείσθω, "If she will marry again, let her marry by the consent of her father."

22. If a son be a magistrate, the magistrate is exempted, but not the son. That is, in those things which concern his office and dignity, the father hath nothing to do with him; but, in things economical, the father's power stands, and his person is capable of the same regard as formerly; of all the same, 'salvo honore magistratus.' But yet the reverence of such a son to a father, ought to be no otherwise exacted than by the measures of prudence and custom, and the common usages of the place. When Fabius Maximus[n] came to his son, who was then consul, and sat upon his horse, otherwise than he ought, his son sent the lictors to him to call him to descend and come to him; and the old man gladly obeyed, and told him, "Non ego summum imperium tuum, fili, contempsi," "I did not despise thy authority, but I tried if you knew how to be a consul:" "Nec ignoro quid patriæ venerationi debeatur; verum publica instituta privatâ pietate potiora judico," "I know what veneration is due to a father; but the private regard must give place to the public laws."—And yet, even in things of public nature, if a father be wise, his counsel ought to have some force besides the reason. When the tribunes of the people, who sometimes had consular dignity, contended which of them should go to the war against the Lavicani (for they all would fain have gone, but none would stay at home to take care of the city), Quintus Servilius commanded his son to stay, and do his duty at home; and he did so; for it was for the public interest that one should, and the power of his father determined him when they all refused at first.

[m] In Basilico. [n] Valer. Max. lib. 2. cap. 2. §. 4. Helfrecht, pag. 88.

23. If a son enters into holy orders, it does not quit him from his duty and obedience to his father, unless the law declare it so; that is, in such things, wherein the father's political power did consist. And we find in that collection of Canons [o], which is called Apostolical, it is decreed, that 'if a servant take on him holy orders against the will of his lord, there was a redhibition allowed;' he was to return to his father's service, till he was freed by his lord. The case is the same in princes and in fathers.

There are four little queries more for the finishing of this rule; the answers to which will be short, because they depend upon the former discourses.

24. Whether, if the grandfather be alive, and the son be in his power, it be sufficient to legitimate the marriage of the nephew, if the grandfather consent, though the father be not asked.

25. To this the lawyers [p] answer with a distinction: If the nephew marry a wife, the consent of the son must be asked; but if the niece marry, the consent of the grandfather is sufficient: and so it is, if the nephew marry in the same family, that is, the niece by another son. The reason of the last is, because the fathers are supposed willing to do advantage to their own family, and therefore it may be sufficient that he, who is in actual possession of the government, should explicitly consent, and the other implicitly. But why to the marriage of the niece the grandfather's consent should be enough, but to the nephew's marriage the father's consent also be required, the reason that is pretended, is only this,—Because no man ought to have his heir provided for him against his will, of which there is no danger in the marriage of a daughter. But in short, though this was thus in the civil law of the Romans, and was no more reasonable than we see; yet now that it is a case of conscience, I am to answer otherwise. For it is against natural and divine reason and laws, that the father should, in either of the cases, be neglected, who ought rather to be preferred, as he that is most and longest like to be concerned in the good and evil of the marriage.

26. Whether, if the parents have consented and authorized the treaty of marriage, till the affections of the children

[o] Cap. 81. [p] Lib. oratione 16. sect. 1. ff. de Ritu Nuptiar. lib. 3, D. eod.

are irrevocably engaged, and afterward retract that consent, —the children are bound to obey their parents, and quit their loves.

27. This I find in an elegant case related by Gentian Hervet[q] in his oration to the council. Damoiselle Vitrou was espoused to a cavalier by her parents; but when he would have married her and carried her home to his friends, her parents, I know not upon what account, changed their minds and refused to let her go. But the soldier carries her away by force, and marries her and lies with her, but used her ill; of which she being quickly weary, flies into a monastery; and that she might not be drawn thence and forced to return under her bondage, she pretends that he was not her husband by law, because he forced her from her father's house against the will of her parents. To this it was answered in behalf of the husband, that she who was espoused legally, might be carried away by the spouse lawfully, according to that of Gregory[r], and Eusebius: "Si quis virginem aut viduam furatus fuerit, nisi fuerit à se desponsata, anathema sit."—If she was not espoused, it is 'plagium et raptus,' 'a rape and stealth;' but if she was, it was no fraud to him. Now if this was no ravishment, as it is plain, because she was espoused,—and she was willing, though her parents were not,—then she was his wife, says the law[s]; and if so, then the revocation or dissent of the father hindered not, but that she might proceed thither where she was engaged. Now this case went far indeed: but if it be not gone so far, yet if it be gone thither, from whence they cannot honestly or decently recede,—the father's dissent ought not to be a prejudice to the consummation: for it began from an honest and a competent cause, it was a fire kindled from the sun, and it proceeds to that which is honest in itself; and therefore there is no evil done. But if the parties are unengaged, or be indifferent, or can well retire, the first liberty did not let them loose from duty, but that they are to abide there where they were, unless, I say, by that first leave they are passed beyond a fair return. For the affections and the great content of children are not to be played with, as with a tennis-ball; and it is in

[q] De Clandest. Matrim. impress. Paris. 1556.
[r] In Burchard. et in Decretis.
[s] Idem dixit Lucius III. in cap. Cum Causam de Rapt. extra.

this as in his children, if he have begotten the affection unto life, he must maintain it at his own charge.

28. Whether mothers have the same authority over their children as the fathers have.

To this I answer, that, in the civil law, sons were not in their mothers' power, but in their fathers': "Appellare de nuptiis debui patrem[t];" and Eustathius upon Homer[u]: Χρήσιμον δὲ θέλημα πατρικὸν ἐπὶ γάμῳ ὡς αὐτὸς ἐεδνώσατο θυγατέρα: 'He that gives the dowry, it is fit that by his will the marriage be contracted.' This is well enough that the father should do it; but it becomes the piety of children to endeavour, that their mother be pleased; for to her also, there is the same natural relation, obligation, and minority, and in all things they are equal, abating the privilege of the sex; and therefore though the same duty is owing to them both, yet their authority is severally expressed, which to my sense is well intimated by Eustathius[x]; Οὐκ ἐξουσία πατρὸς, οὐ μητρὸς πειθὼ, οὐδ' εἰ τὴν Ἀφροδίτην ἀγάγωνται, "Not the power of my father, nor the persuasion of my mother, should make me marry even Venus herself:"—where the mother is allowed only the power of persuasion. But that also implies all her power, only that is the most proper way for her exercise of it. And it is the most forcible. "Jussum erat, quodque est potentissimum imperandi genus, rogabat, qui jubere poterat," said Ausonius[y]. Οἷς γὰρ ἂν ἐξῇ πράττειν, ὅ, τι ἂν ἐθέλωσι, σὺν βίᾳ, ἤπου δεόμενοι δυσωπεῖν, καὶ πείθειν ἀρκοῦσιν, said Julian[z] the emperor: "For they that can, if they please, compel, ought, most of all, to prevail, when they counsel and entreat."—But however things were in the law of the Romans, yet, by the laws of nature, mothers, who have so great an affection to their children, and so great an interest in the good and evil respectively of their son-in-law's or their daughter's manners, must, with duty and tenderness, be regarded like the fathers. Ὁ δὲ τὸν τῆς φύσεως νόμον ἐποιεῖτο παραχρῆμα τοῦ πρέποντος βραβευτὴν, καὶ τὸν ἀνεθέλητον τῇ μητρὶ γάμον παραιτεῖσθαι προστέταχε τῷ υἱῷ, said St. Cyril[a] of Alexandria: "Consonantly to the law of nature he commanded

[t] Seneca Controv. lib. 3. cap. 5.
[x] Ismenia et Ismen. 5.
[z] Orat. 2.
[u] Ὀδυσσ. β.
[y] Epist. ad Paulum.
[a] In Genes. lib. 4.

his son to abstain from such marriages as were displeasing to his mother." Isaac did so to Jacob. And to this purpose Catullus[b] elegantly presses this obligation.

> At tu ne pugna cum tali conjuge, virgo.
> Non æquum est pugnare, pater quoi tradidit ipse,
> Ipse pater cum matre, quibus parere necesse est:
> Virginitas non tota tua est: ex parte parentum est:
> Tertia pars patri data, pars data tertia matri,
> Tertia sola tua est.——

"Her father and her mother and herself had in herself equal share."

29. But if the father be dead, then the question is greater; because, if the mother have any power, she hath it alone: when her husband lived, she had power as the moon hath light by the aspect of the sun: but now that her light is extinguished, hath she any natural and proper power of her own? To this St. Austin[c] answers clearly, "Fortassis enim quæ nunc non apparet, apparebit et mater, cujus voluntatem in tradenda filia omnibus, ut arbitror, natura præponit: nisi eadem puella in ea jam ætate fuerit, ut jure licentiore sibi eligat ipsa quod velit." From which words of St. Austin it is plain, that in the disposing of her daughter in marriage, by the voice of nature the mother hath a power; and this is rather, and more, and longer, than in the disposal of her son. The reason of both is the same, because, by the advantage of the sex and breeding, the son will be fit to govern in the family; and, at the same time, the daughter hath the weaknesses of feminine spirit upon her as much as the mother, and more by reason of her tender age and want of experience. To which may be added, that if the father be dead, the estate is descended upon the son, and then he is put by law under the power of tutors and guardians, and then is to marry, εἰ ἐτελεύτησεν ὁ πατὴρ, γνώμῃ τῶν συγγενῶν, says the law, "by the consent of his kindred" and guardians; that is, if he be not come to maturity: but if he be, the rule[d] is, "Filius quidem pubes nullius expectat arbitrium, filia vero matris et propinquorum," "A son that is of a marriageable age,—if his father be dead, is wholly in his own power, but a daughter is under the power of her mother."—And yet this

[b] Carm. 62. Doering, pag. 226. [c] Epist. 233.

[d] Lib. filia. 20. cap. de in Offic. Testam, et Βασιλικ. lib. 28. cap. 4. Constantin. Hermenopul. Epitom. lib. 4. tit. 7. sect. 12.

also lasts no longer but to a certain age, which is determined by the laws of every nation respectively. And yet both the son and the daughter are to show piety to their mother, and not to grieve her: "pulchre Deo obtemperat qui tristis est parenti," for "he does ill serve God, that brings sorrow to his parent."—And therefore the ancient laws of the Romans were ever favourable to that part of the marriage which the mother chose. "Postulatu audito matris tutorumque, magistratus secundum parentis arbitrium dant jus nuptiarum," says Livy[e]. But the Visigoths, by their law[f], were more kind to the mother's interest; for "patre mortuo, utriusque sexus filiorum conjunctio in matris potestate consistat;" "both son and daughter, if their father was dead, were in the power of their mother, and were to marry by her appointment and counsel." And therefore Simeon Metaphrastes[g] commends Abraham for taking a wife at the command of his parents, μίαν τῶν ἐντολῶν καὶ τοῦτο εἰδὼς, τῷ πατρὶ καὶ μητρὶ πείθεσθαι, "as knowing it to be one of the divine commandments to obey his father and his mother."—But these things were varied by laws and particular considerations. That which is of universal truth, is this only, that, in their natural minority, children are equally under the power of their mother, as of their father, when he was alive; but when they can choose, they are sooner quit from the castigation or legal coercitive powers of their mother, than of their father, if he had lived. And this relies upon the practice and consent of all the world, and hath this reason, because women are not, by laws, supposed very fit to govern lasting interests. But lastly, they are never quit from their reverence and duty, piety, and greatest and kindest regards: but the mother's dissenting does not annul the marriage of her sons, that are of age; and it is so far from that, that their not complying with their mother in this affair is only then a sin, when it is done with unregarding circumstances, or hath not in it a great weight of reason. But every child should do well to remember their obligation to their mothers; and as St. Chrysostom[h] said in his own case, when he had a mind to enter into a monastery, his mother recalled him, or rather the voice of God crying, "Fili, colito Anthusam," "Son, remember thy

[e] Lib. 4. cap. 9. Ruperti, vol. 1. pag. 281.
[f] Lib. 3. tit. 1. sect. 7.
[g] In Abramio.
[h] Lib. 1. de Sacerdot.

mother Anthusa," and grieve her not as long as she lives. For, 'nomen matris, arcana reverentia[i],' there is a secret veneration due to the very name of a mother.

30. Although a father's authority is such, that against it a son may not marry; yet whether or no is the power of the parents such, that they can compel a son or a daughter to marry whom or when they will?

31. To this I answer, that, in the matters of marriage especially, and proportionably to the probable event of things in other lasting states of life, that of Aristotle is very true; Ἡ μὲν οὖν πατρικὴ πρόσταξις οὐκ ἔχει τὸ ἰσχυρὸν οὐδὲ τὸ ἀναγκαῖον, "The father's authority hath in it no necessity, no constraint."—Which Heliodorus Prusæensis thus paraphrases; "The commandments of fathers to their children," τὴν ἰσχὺν οὐχ οὕτω μεγάλην ἔχειν ὥστε βιάζεσθαι, "have not in them such force, that they can compel their children."—And therefore Pamphilus[k] in the comedy complains passionately, and yet reasonably,

> Proh Deûm atque hominum fidem! quid est, si non hæc contumelia 'st?
> Uxorem decrêrat dare sese mihi hodie: nonne oportuit
> Præscisse me ante? nonne prius communicatum oportuit?

Upon which place Donatus said well, "Quia nuptiarum non omnis potestas in patre est," "All the entire power of marriages is not in the fathers." It may not be done against their wills, but neither is their will alone sufficient. The fathers have a negative, but the children must also like. "Constat enim circa nuptias esse filiis liberam voluntatem: ideo, servata ratione pietatis, communicatum oportuit," said Eugraphius; "For it is certain they have the power of choice, and therefore in piety the father ought to have acquainted the son with it." And the same also is the case of the daughter, she is not to be forced to marry against her inclination and affections. Eustathius[l] upon that of Homer, Ὦι πατὴρ κέλεται, καὶ ἀνδάνει αὐτῇ, says πρὸς ἀκρίβειαν ἐρρήθη πολιτικὴν "it was spoken according to the exactest political measures, that the father should choose a husband for his daughter Penelope, and yet that his daughter should like the young prince Ulysses;" Οὐ γὰρ δουλικῶς ὁ πατὴρ τῇ θυγατρὶ τὰ τοιαῦτα κελεύσει, ἀλλ' αἱρήσεται καὶ αὐτή. "For there is difference be-

[i] Origen. ubi supra.
[k] Andria, act. 1. scen. 5. Westerhov. pag. 61.
[l] Ad Οδυσσ. β

tween a servant and a child; the father may choose for his daughter, so that at the same time she may choose for herself: and therefore, says he, when Homer said δοιὴ δ' ᾧ κ' ἐθέλῃ, he says it in respect of the father, that he may give her to whom he please; but when he says καὶ ὃς ἂν τῇ Πηνελόπῃ χαρίεις δόξαι, he says it in respect of the daughter, that the man whom the father chooses, must be gracious in her eyes:" Οὐ γὰρ θέμις παρὰ Ῥωμαίοις ἄκουσαν γυναῖκα κατεγγυᾶσθαι ἀνδρὶ, said Priscus[m]; "It is impious to marry a daughter, against her will."

32. But this is to be understood with some restraint. For if a father may choose, and the daughter may choose too, how, if it happens that they fancy several persons? shall the father's authority, or the daughter's liking, prevail? both cannot prevail at once: but the question is, which shall, and when, and how long, and in what cases? To this I answer, that, if the matter be indifferent, or the person be fit, the father ought to prevail. "Patris quippe jussa non potuisse filium detrectare;" "A son may not refuse his father's commandment[n]." For the father's authority is certainly a very great thing; Ἄρχων ὁ πατὴρ ἐστι τῷ παιδὶ καὶ δεσπότης ἐξ αὐτῆς τῆς φύσεως, "A father is, by nature, to his child both a lord and a prince[o]:" and therefore Theophilus[p] calls the paternal power ἄκραν ἐξουσίαν, which is the rule of the royal majesty. And though the old name for disobedience in the Scripture is 'witchcraft,' yet Ennodius[q] would fain have found a new name for this kind of it: "Non invenio qua novum facinoris genus explicem novitate sermonum, quibus fuit sacrilegium non parere." "It is sacrilege at least not to obey our parents."—Now although this be spoken generally and indefinitely, yet it must have its effect in such commandments, which have no great reason against them: and therefore if a father offers a wife to a son, or a husband to a daughter, such as a wise or a good man may offer without folly and injury, the child is not to dispute at all, but to obey, if the father urges and insists upon the precept.

33. But there are some cases, in which the father ought not to urge the children. 1. If the children be not capable

[m] In Ecloga Legationum. [n] Tacit. Annal. 3. cap. 17. Ruperti, vol. 1. p. 145.
[o] Manuel. Palæolog. orat. 7.
[p] Ad sect. 1. de his qui sui vel alien. jur. [q] Declam. 10.

or able for marriage; if it be destructive of their health, or against their nature; and this excuse was allowed among the Romans, even where the paternal power was at the highest. "Solent, qui coguntur à patribus ut uxores ducant, illa dicere, non sumus etiam nunc apti nuptiis[r]." It is not fit to require them to marry that hate, or are unable to do the offices of that state.—2. If the father offer to his child a dishonest or filthy person, unequal, or unfit, that is, when it is notoriously or scandalously so: when the person is intolerably and irreconcilably displeasing, then the command is tyranny. The son is bound to obey his father commanding him to marry; "sed enim si imperet uxorem ducere infamem, propudiosam, criminosam, non scilicet parendum," said A. Gellius[s]; "but not, if he offers to his child an infamous, a dishonest person." And so the law[t] provides in behalf of the daughter, that she ought not to be compelled to marry an infamous man; and so Harmenopulus[u] renders it: Τότε δὲ μόνον ἀντιλέγειν δύναται ὑπεξουσία, ὅτε τοῖς τρόποις ἀνάξιον καὶ αἰσχρὸν αὐτὴ μνηστεύεται, "She that is under her father's power, can then only refuse her father's command, when he chooses for her a man, that is unworthy in his manners, and a filthy person:"—and indeed in this case she hath leave to refuse the most imperious command of an angry father. Son and daughter in this have equal right: Οὐδὲ νῦν γεγάμηκεν, ἀλλὰ καταναγκαζόμενος καὶ βιαζόμενος ἠρνήσατο: so Lucian[x]; "Though his father would have compelled and forced him to marry a wife, yet he refused it:" and he might lawfully, when he offered him a strumpet.

34. But there is another sort of persons which are called 'turpes,' 'filthy' or hateful; and that is, such as are deformed and intolerably ugly. Μόνους γοῦν τοὺς μὴ καλοὺς ὀνομάζομεν αἰσχροὺς, saith Lucian[y]; "We call them filthy, that are not fair or comely." But in this sense, if the father offers a husband to his daughter, she hath not liberty to dissent, but only to petition for liberty: for beauty is not the praise of a man, and he may be a worthy person, though of an ill shape,

[r] Seneo. Controv. 1. 6. [s] Lib. 2. cap. 7. Oiselii, pag. 129.
[t] L. Sed quæ Patris, ff. de Sponsal.
[u] Matthæus Monachus legit ὑπεξούσιοι, ut filium etiam comprehendat: sed malè, quia eo loci Jurisconsultus separatim loquitur de filio et filia, et de filio controversia non erat. Harmenopulo autem consentiunt Βασιλικ. lib. 28. tit. 1.
[x] In Dial. Meretr. [y] Charidem. cap. 26. Bipont. vol. 9. p. 293.

and his wit and manners may be better than his countenance. And there is no exception in this, but that if the daughter hath used all means she can to endure him, and cannot obtain it, she can only then refuse, when she can be sure, that with him she can never do her duty; of which because she cannot be sure beforehand, because his worthiness may overcome the air and follies of her fancy, therefore the unhandsomeness of a man is not alone a sufficient cause for a daughter to refuse her father's earnest commands. But yet in this case, though a father have authority, yet a good father will never use it, when it is very much against his daughter, unless it be also very much more for her good. But a son hath in this some more liberty, because he is to be the head of a family, and he is more easily tempted, and can sooner be drawn aside to wander, and beauty or comeliness is the proper praise of a woman; comeliness and good humour, 'forma uxoria,' and a meek and quiet spirit, are her best dressings, and all that she can be good in herself; and therefore the ugliness of a woman will sooner pass into an incapacity of person, than it can do in a man. But in these cases, as children should not be too forward to dispute the limits of their father's power, lest they mistake their own leave of their father's authority; so fathers also should remember what the lawyers[y] say, "Patria potestas in pietate debet, non in atrocitate consistere." The father's power consists not in the surliest part of empire, but in the sunshine side, in the gentlest and warmest part. "Quis enim non magis filiorum salutem quam suam curat?" saith Tertullian[z]. He is an ill father, that will not take more care for the good of his child, than his own humour.

35. The like is to be said, in case the father offers to his child a person of a condition much inferior. For though this difference is introduced principally by pride and vanity, in all the last ages of the world, and nobility is not the reward of virtue, but the adornment of fortune, or the effect of princes' humours, unless it be in some rare cases; yet now that it is in the humours and manners of men, it is to be regarded, and a diamond is really of so much value as men will give for it: and therefore a son or daughter may justly refuse to marry a person, whose conjunction will be very dis-

[y] L. D. Adrianus. ff. ad legem Pompeian. de Partic. [z] Advers. Marcion.

honourable and shameful: but at little differences children must not start. If the nobility marries into the family of a merchant, the difference is not so great, but that portion makes up the want of great extraction. For a husband or a wife may be γενναῖος ἐκ βαλαντίου, 'noble by their wealth;' so the Greek proverb means: and old Ennius[a] translating of Euripides's Hecuba[b], makes wealth to be nobility:

> Hæc tu etsi perverse dices, facile Achivos flexeris.
> Num quum opulenti loquuntur pariter atque ignobiles,
> Eadem dicta, eademque oratio æqua, non æque valet:

'When the rich and the ignoble speak the same things, the rich man shall prevail, when the ignoble shall not.'

> ——— κεῖνο δ' ἰσχύει μέγα,
> Πλοῦτος· λαβών τε τοῦτον εὐγενὴς ἀνήρ[c].

Wealth makes nobility. And therefore, in such cases, if the sons or daughters refuse the command of their father, it is to be accounted rebellion and disobedience. But the whole inquiry is well summed up in those excellent words of Heliodorus: Εἰμὴν γὰρ ἔδει τὸ τῆς ἀρχῆς ἀποχρήσασθαι νόμῳ, πάντως ἐξήρκει μοι τὸ βούλεσθαι. Βιάζεσθαι γὰρ οἷς ἐξὸν, τὸ πυνθάνεσθαι περιττόν. Εἰ δὲ γάμος τὸ γινόμενον, τὸ παρ' ἀμφοτέρων βούλευμα συννεύειν ἀναγκαῖον. "If the fathers will use the utmost power of law, it is enough for them to say, 'it is their will.' And it is to no purpose to ask, where they have power to compel. But when there is a marriage to be contracted, it is fit that they both consent."

There are some inquiries relating to the title of this chapter, which would be seasonable enough here to be considered, concerning the powers of husbands over their wives: but because the matrimonial questions and cases of conscience, are very material, and very numerous, and, of all things, have been most injured by evil and imperfect principles, and worse conduct; I thought it better to leave this to fall into the heap of matrimonial cases, which I design in a book by itself, if God shall give me opportunity, and fit me with circumstances accordingly.

[a] Apud A. Gell. lib. 11. cap. 4. Oisel. p. 582.

[b] The original Greek is subjoined:

> Τὸ δ' ἀξίωμα, κἂν κακῶς λέγῃς, τὸ σὸν
> Πείσει. λόγος γὰρ ἔκ τ' ἀδοξούντων ἰὼν,
> Κἀκ τῶν δοκούντων αὐτὸς, οὐ ταὐτὸν σθένει.
> Hecub. Pors. 297. Leips. ed. pag. 28. (J. R. P.)

[c] Eurip. in Archelao. 22. Priestley's edition, vol. 7. p. 580.

CHAP. VI.

OF THE INTERPRETATION, DIMINUTION, AND ABROGATION, OF HUMAN LAWS.

THERE are seven ways of the changing of human laws, so that the obligation of conscience is also changed: 1. Equity. 2. Judicial interpretation. 3. A contrary, or a ceasing reason. 4. Dispensation. 5. Commutation. 6. Contrary custom. 7. Direct revocation, or abrogation. Of these I am to give account in this chapter, that the conscience, having already seen her obligation, may also discern when she enters into liberty.

Sect. 1. *Of Equity.*

RULE I.

When the Letter of the Law is burdensome and unjust, the Meaning and Charity of the Law do only oblige the Conscience.

1. "SCIRE leges non est verba earum tenere, sed vim ac potestatem; quia prior atque potentior est quam vox mens dicentis," say the lawyers; 'The mind of the lawgiver is more to be regarded than his words." For words change, and things change; and our expressions sometimes the more literal they are, the more obscure they are, because there are more words than things, and the circumstances and appendages are the best commentary. "Leges perquam egregiæ res sunt: sed is, qui legibus utitur nimium exacte, videtur esse sycophanta," said Menander[d]: "It is not the office of a judge or prince, but of a sycophant, to be exact in the use of his laws:" but there is abatement and allay to the words by the purpose of him that spake them. For "Nullam rem neque legibus, neque scriptura ulla, denique ne in sermone quidem quotidiano atque imperiis domesticis recte posse administrari, si unusquisque velit verba spectare, et non ad voluntatem ejus, qui verba habuerit, accedere[e];" for "Nothing can be rightly administered, either in laws or common talk, in public and do-

[d] The original Greek is subjoined:

Καλὸν οἱ νόμοι σφόδρ' εἰσιν· ὁ δ' ἰρὰν τοὺς νόμους
Λίαν ἀκριβῶς, συκοφάντης φαίνεται.

Stob. Floril. tit. 44. concluding lines. (J. R. P.)

[e] Cicero, lib. 2. de Invent. cap. 47. Wetzel, vol. 1. pag. 293.

mestic governments, if we regard the words more than the mind of him that spake them." There are some tacit exceptions in all the laws that would not be tyrannical. "Quædam etiamsi nulla significatione legis comprehensa sint, natura tamen excipiuntur," saith Quintillian; "Natural reason excepts some things, which are not excepted in the law."—And it was accounted a fierce and cruel piece of importune justice in Basilius Macedo the emperor, who,—when, a stag having fastened his horn in the prince's belt, and tossed him up with very much danger, one of his guard, with a faulchion, cut the prince's girdle, and rescued him from his sad calamity, —caused the poor man to be put to death, because by the law it was capital to draw a sword upon the prince. The law could never intend to make it death to save the prince's life. Here was a necessity in this case; and if it had been like a fault, yet here it had been excusable; for necessity excuses whatever it compels to.

2. Now this happens in the matter of penal laws principally; for those equities, which are alleviations of duty, I shall consider under the other heads: but, in penalties, it is not only the charity, but the justice of the law, that the subject should neither be snared by an unwary or obscure letter, nor oppressed by an unequal punishment.

> Quid tristes querimoniæ,
> Si non supplicio culpa reciditur[f]?

Laws intend not to cut away the life, or to pare away the goods, of the subject, but to cut off his crimes, to restrain him from that which the law would not have him to do. This, in propriety of speaking, is 'justice:' but 'equity,' although it signifies all that reasonableness, by which the burden of laws is alleviated, and so will comprehend the six first heads; yet here I mean it in the particular sense, that is, the easing of punishments, and the giving gentle sentences: not by remission of what is justly incurred, for that is clemency;—but by declaring the delated person not to be involved in the curse of the law, or not so deeply; not to punish any man more than the law compels us; that is equity. And to this many rules in the law do minister.

3. "Non debet aliquis considerare verba, sed volun-

[f] Horat. Od. iii. 24. 33.

tatem, cum non intentio verbis, sed verba intentioni debeant deservire," said the law [g]. Which is thus to be understood; not that we are blindly to aim at some secret purpose of the lawgiver, for the intention of man is to be judged by his words, and not the words by his intention. But the meaning is, that if some words be obscure, they are to be made intelligible by others. "Incivile enim esse, nisi totâ lege perspecta, una aliqua ejus particula proposita, judicare," says the law [h]. We must, in discerning the sense of the law, take in altogether, the antecedents and the consequents; and if darkness be over all the face of the law, then the intention is to be judged by circumstances, by the matter and the occasion, by the story and by use. "Intelligentia dictorum ex causis dicendi assumenda est," said St. Hilary [i]; "By the causes of the law, we may judge of the intention of the lawgiver."

4. When the first sense of the words infers any absurdity, contradiction, injustice, or unreasonableness, the mind of the lawgiver [k] is to be supposed to be otherwise, and the words are not to be adhered unto. "In ambigua voce legis, ea potius accipienda est significatio, quæ vitio caret, præsertim cum voluntas legis ex hoc colligi possit." The laws are supposed to be good, and therefore no evil can come from them, and if there does, that was not their mind; for, as Cicero [l] said rarely well, "Verba reperta sunt, non quæ impedirent, sed quæ indicarent voluntatem;" "Words were not invented to obscure, but to declare, the will," and therefore not the words but the will is to prevail; for if we could otherwise certainly and easily understand the prince's will, we should never use words. When Leo Isaurus [m] was in expectation of the Greek empire, he dealt with two astrologers that were Jews: they promised that the sum of affairs would fall into his hands, and he promised them to grant them any one petition they should ask. When he had obtained his desires, they desired him, that all the images of saints might be demolished: he granted their request, but put them to death who put it in execution. This was against that mind of the

[g] Cap. in his de Verb. Signif.
[h] Lib. 4. ff. de Legib.
[i] Lib. 4. de Trinit.
[k] Lib. 19. ff. de Legibus.
[l] Orat. pro Cæcin.
[m] Zonar.

promise, which the prince had or ought to have had, and he did not keep his promise though he kept his word; for it is not to be supposed, that he promised or intended to reward them with a mischief. So it is in laws; if an evil be consequent to the observation of the letter, the intention is then wholly to be regarded; for "fraudem legi facit, qui, salvis verbis legis, mentem ejus circumvenit," saith the law [n]; "The law is then abused, when you keep the words of the law, and prevaricate in the sense and meaning."

5. If the intention be gathered by circumstances, by comparing of laws, by the matter and by appendages, and yet but obscurely, the words are rather to be chosen than the obscure intention. The reason is, because words are the first and principal sign of the intention, and therefore ever to be preferred; and we are to seek no other, but when, by accident, these are hindered to signify: when the intention and the words do differ,—by what means soever the intention can rightly be found out, that must be stood to. "Ex lege esse tam quod est ex sententia legis, quam quod ex verbis [o];" for that is law which is signified by the words, or by the causes and matter and circumstances. But when, in respect of the obscurity, on all hands the case is indifferent, we must stand to the words; for there is equity in that, that what is first in every kind, should be preferred and be the measure of the rest.

6. Add to this, that unless it be manifest, that the words do not represent the intention ofthe lawgiver, the conscience of the subject is to obey the words of law: so the law [p] itself says expressly; "Non aliter à significatione verborum ejus recedi, quam cum manifestum est aliud ipsum sensisse." For if this rule were not our measure, every witty advocate might turn laws to what purpose he please, and every subject would take liberty to serve his prince, not by the prince's law, but by his own glosses; and then our conscience could have no measure of duty, and therefore no ground of peace.

7. When there is, and ought to be, a little deflexion from the natural or grammatical sense, and this deflexion is

[n] Lib. contra. ff. de Legib. et. lib. Non Dubium. cap. de Legib.
[o] Lib. Nominis ff. de Verb. Signif. [p] Lib. Non aliter. ff. de Legat.

evident and perceived, we must stand to that sense without any further deflexion, as strictly as to the first natural sense. That is, when a word in law signifies many things by proportion and analogy, but one is the principal, we must stand to that principal. As if a law says, 'He that steals a chalice from a church, let him die the death;' the word 'death' must signify naturally, for the separation of soul and body. But if, by any other indication, it appear not to signify in the first natural sense, then it must signify in that sense that stands next to it; it must stand, as the logicians say, 'pro famosiori analogato,' and therefore must signify 'a civil death,' that is, banishment, or the diminution of his head by loss of liberty, according to the usage of the laws. And when it is said, the son must inherit, it is meant, not the natural but the legitimate; or if not this, yet not the adopted but the natural, not the youngest but the eldest.

8. If words used in law have a 'civil signification,' by parity, by extension, by fiction of law, it is then to be followed and chosen, and the natural to be left, when the circumstances, the matter, and the appendages, do enforce it, else not: but yet the legal sense of a word, though it prevails not against the natural, yet it must prevail in the common sense of law, against the sense of privilege and exception. Among the Romans, they who had three children, had a right not to be sent to the wars. But if, by the common use and signification of the law, the word 'children' had signified 'nephews,' or 'adopted children,' although this sense could not have prejudiced the first and natural sense of the word; yet when the emperor gave the same privilege to them, that had children in no sense, but to such as made three books, children of the brain, the second sense could not prevail against the first, yet it might against the last.

9. Words that are of civil or legal signification, must not signify according to grammar, but according to law. 'Suspension' must not signify hanging of the man, but a temporary laying aside his office or emolument: and 'sacrament' must not, in theology, signify an oath, but a religious ceremony of Christ's institution. For whatsoever is a word of art, must be understood by the measures of that art: and therefore if it be a law-term, though that word be used also in common among the people, yet not this sense, but that is

to be followed in the understanding of the law [q]. But if the law hath no propriety of use or interpretation in the word, but takes it up from the common usages of the country,—not the best lawyers, but the best masters of language, are the best interpreters. To which this is to be added; that if a word in law be taken from the common use, and this use change, and the law abide,—the word in the law must abide the same as does the law, and must not change with the common use: and in this case, not the best lawyers, nor the best grammarians, but the best historians, are the best measures of our conscience. The word 'censeo' in the law of the Romans, at first did signify 'to appoint,' afterward 'to estimate,' and then 'to censure,' and at last 'to counsel' or 'to suppose.'—Now when the word 'censere' is used, 'l. ult. ff. de suis et legit. hæred.,' it must not be expounded by Cicero in his oration 'pro Cluentio,' where it stands for 'liquet;' for in this law it stands for 'consulere:' and therefore, in such cases, we are to inquire what the word signified, when the law was made; for the word, in the old use, is not the measure of the present use; neither, if it were clear what it meant in the ancient laws, could that be the measure of expounding contracts or human acts or obligations at present: nor yet can that word, in that old law, receive an interpretation by the difference, which it hath got by time.

10. But, it may be, some of these rules will be but seldom useful to our cases of conscience; possibly they may often: but then to reduce these things to the intentions of the present rule, and to become a measure of practice, there are three great rules, which are the best and most general measures of finding out the meaning of the words of laws in order to equity and conscience, when the grammar or the common use of the words themselves is not sufficient.

11. That is the meaning of the words of the law, that does the work of the law. And this is the first rule of equity. For it is but conscience to suppose, that he that makes a contract, does it 'bona fide;' and he that makes a will, would have it executed; and he that leaves a legacy, would have it do good; and he that appoints a guardian, would have one that should be fit for the employment,—that the thing in hand

[q] Dialecticorum verba nulla sunt publica: suis utuntur. Et id quidem commune omnium fere est artium. Cic. Academ. lib. 1. cap. 7. n. 25. Davis et Rath. pag. 36.

may not perish and come to nothing. And therefore, Brasidas did cavil, not treat like a prince, when having agreed with the Greeks that he would quit his claim to the Bœotian fields, he afterward told them that 'those were not the Bœotian fields, but his own, where he encamped his army[r].' Which thing, if it had been true, they all had treated about nothing. —And when the laws of Sicily forbade their priests to resign their benefices to their sons, the two priests of Panormo, that agreed together interchangeably to resign theirs to the son of each other, did keep the words of the canon well enough; but they took a course that the law should not acquire its end, and therefore they sinned against its meaning. And this rule is of great use in all doubtful and amphibological expressions, according to that rule in the law[s], "Quoties idem sermo duas sententias exprimit, ea potissimum accipiatur, quæ rei gerendæ aptior est." Thus in the discerning contracts and other intercourses, the substance of the thing and the present employment are more to be considered than any improper or equivocal expression, or quirk, in the words of the law or intercourse. Antonio Casulano, a poor Piemontane, having a sad vintage and harvest one year, by reason of the early rains running from the hills before he had gathered his fruits, comes and complains to his landlord Signior Vitaldo, and tells him his sad condition, and how unable he was to pay his rent. Vitaldo pitying his poor tenant, told him he would never exact any thing of his tenants that were ruined by the hand of heaven, and therefore for his rent he bid him be at rest and let it alone. Casulano makes his leg, and thanks his lord, and goes home. But the next year he had so brave a harvest and so full a vintage, that it was greater than two years before. He comes and brings this year's rent: but Vitaldo asks him where was the rent of the former year. The tenant says it was forgiven him. Here then is the question, what was meant by 'let it alone,' and 'he would not exact his rent of his disabled tenants;' that is, while they were not able, he would forbear them: for there all the intercourse was about forbearing the rent, and he never thought to ask his lord to forgive it him. But this sense of the words was 'rei gerendæ aptior,' it was agreeable to both their interesst in conjunction, and therefore Casulano is bound in con-

[r] Thucyd. lib. 4. [s] Lib. 67. ff. de Reg. Jur.

science to pay his rent. So the lawyers[t] say; "Si ambigua sit intentio seu actio, quod utilius sit actori, accipiendum est." The landlord is to have the advantage of the ambiguity; for besides that he knew his own meaning best, the right was his, and no man is to be presumed to part with his right against his will. And thus it is in the law, as well as in contracts; "Amphiboliæ autem omnis in his erit quæstio, aliquando, 'uter sit, secundum naturam magis sermo?' semper, 'utrum sit æquius,' utrum is, qui sic scripsit ac dixit, sic voluerit:'" So Quintilian[u] draws into a compendium all the rules of expounding doubtful words. First, see 'whether it be agreeable to the thing in hand,' for no man is willing his own act should perish: for this sometimes will do it; but if it will not, 'then equity must intervene:'—but if, by any other way, we know the mind of the lawgiver, that is of all things to be preferred. For though the case be hard, yet if it was the mind of the lawgiver and be not unjust, it must stand. "Quod quidem perquam durum est, sed ita lex scripta est[x]," "It is hard, but so the law is written:" that is, if the mind of the lawgiver be certain and clear, no equity is to intervene; but when the mind is not known, equity is the best meaning. But of this by and by. This is of great use in religion as well as in justice. For when God gives a command and uses mystical expressions, metaphors, ritual or typical representments, or signifies his pleasure by the outside and crust of services, though this is not to be despised or omitted, yet the spiritual and moral sense and internal service is the principal, that is, 'rei gerendæ aptior,' more to God's purposes, and more to ours. When God commands us to repent, and to serve him, he that asks the question, 'when God would have us to repent, whether it will not serve the turn if we repent at all, if we repent upon our death-bed, because the words of the commandment do indifferently signify any time:' here we are rightly determined by this rule, that was God's meaning which does God's work; that, without which the work would perish, and God would not be served: for God's intention being that we should glorify him by a free obedience, and serve him in a holy life,—that, which makes

[t] Lib. Ex Conducto. sect. Papinianus ff. de Usur. lib. 65. de Judiciis.
[u] Lib. 7. cap. 9. 15. Spalding, vol. 3. pag. 162.
[x] Lib. Perspexit. ff. Qui et à quibus.

God to lose his purpose, cannot be the meaning of his words. Thus when God commands us 'to come into his courts, to fall down upon our knees before his footstool;' it must mean that we must worship God with the lowest adoration of our souls, with the prostration of our mind: for the body without the mind being nothing,—unless this commandment for bodily worship be expounded to signify the worship of the spirit, God is injured, his intention is defeated. And therefore the law[y] hath taken care of this: "Improprie verba regulariter non accipiuntur, nisi aliter actus vel periret, vel elusorius redderetur;" "Words are not to be taken improperly, unless the proper acception of them does elude the purpose of the law-giver, and makes his law vain." Thus the very gentiles understood the mind of God: when he commanded men to offer sacrifices and oblations to him, his meaning was, they should kill their lusts, and sacrifice themselves to God. To this purpose are those excellent words of Menander[z]:

Εἴ τις δὲ Θυσίαν προσφέρει, ὦ Πάμφιλε,
Ταύρων τι πλῆθος, ἢ ἐλέφας, ἢ, τὰ Διὰ,
Ἑτέρων τοιούτων, ἢ κατασκευάσματα
Χρυσᾶς ποιήτας χλαμύδος ἤτοι πορφυρᾶς,
Ἢ δὶν' ἐλέφαντος ἢ σμαράγδου ζῴδια,
Εὖ οἶσθ' νομίζει τὸν Θεὸν καθιστάναι,
Πεπλάνηται· ἐκεῖνος, καὶ φρένας παῖφας ἔχει.

"He that offers to God the sacrifices of bulls and goats, or of any other beast, gold or rich garments, ivory or precious stones, and thinks by this means to reconcile God to him, is deceived, and is a fool." When God commanded these things he intended to be understood to other purposes.

Δεῖ γὰρ τὸν ἄνδρα χρήσιμον πεφυκέναι,
Μὴ παρθένους φθείροντα, μὴ μοιχώμενον,
Κλέπτοντα καὶ σφάττοντα χρημάτων χάριν.
Μηδὲ βελόπης ἵναμμι· ἐπιθυμῇς, Πάμφιλε·
Ὁ γὰρ Θεὸς βλέπει σε πλησίον παρών.

"For the sacrificer must be a spiritual man, dead unto sin and living unto righteousness; he must be chaste and charitable, just and true, a despiser of the world, and must not desire so much as another man's pin; and he must be the same in private as in public, walking ever as in the presence of God." This is an excellent sum of religion, and the best

[y] Lib. Cum Filiosam. ff. de Legat.
[z] Ed. Clerici, p. 268.—or, see Walpole's Com. Græc. frag. p. 41.

interpreter of the spiritual sense of Moses's law, next to the sermons of the gospel: but, without this, the work of God had perished, and religion itself had been elusory. And this is a sufficient warrant for a sense beyond the letter of a commandment.

12. In all laws and obligations of conscience by contract, when any doubt arises, we are to consider what is most likely and what is most usual, and rest upon that. "In contrahendo quod agitur pro cauto habendum," says the law [a]. We must suppose that the contractor did intend that sense, that is the wariest, because that is the most likely; nothing being so reasonable as to think the man intended that, which all the world does, that is, to buy cheap and to sell dear. If this will not do it, then we must run to the custom of the country; because the things and manners of custom, though they were not in the contract, yet 'veniunt in bonâ fide judiciis,' they are to be of weight in judgments, as being a reasonable decision of questions and obscurities. But if nothing of all this will do, then comes in the principal rule of equity and remissions: "Semper, in obscuris, quod minimum est, sequimur;" "In all things of burden, the least isto be chosen [b]." This is of use in contracts, in testaments, and in infliction of punishments.

13. In contracts.—He that promises to give a man a hundred or two hundred pounds, cannot be challenged nor obliged but for a hundred. "In summis, semper, quod minus est, promitti videtur [c]." The reason is, because, when two things of burden are expressed, he that promised, must so far be his own judge as to determine himself in the event, when he did not in the stipulation; and therefore it is to be presumed, that he would be bound but to the less. For as, in the canon law, when a bishop had obtained leave to resign or quit his little bishoprick, of his superior, it is not granted that he shall be translated to another in the grant of cession; and the reason given in the law [d] is this, "Nam si circa translationem idem fieri voluisset, quod de cessione dixerat, et de translatione poterat expressisse;" "Because he that granted a cession, could as easily have said translation, if he had so

[a] Lib. Cum quid ff. de Reb. Credit. [b] Lib. 9. ff. de Regul. Jur.
[c] Lib. Inter Stipulantem, et lib. Si ita ff. de Verb. Signif.
[d] Cap. 2. sect. Sed neque de Translat. Episc.

intended:" so here also it is presumed, that he intended to give the least; because, if he had intended the biggest, he might as easily have said so, as to have named a less; and if he intended a greater, he may perform it yet if he please. Thus if Titius promise to pay his debt within a year or two, Caius cannot, by virtue of that promise, force him to pay it, till the two years be out.

14. In testaments also the case is the same.—Mævius makes his will, and leaves Lucius his heir of all, but gives his sister as much as one of his sons. The heir is tied to pay his aunt but so much as that son hath, whose portion is the least. Thus when Regulus left to his wife Quintilla the field that was next to the Campus Martius, the prætor understanding that he had two fields next to the Campus Martius, gave her the least of the two: the reason is, because the father is supposed to put upon the heir that burden, which is the lighter [e].

15. But this holds not in all cases: the rule is the same, and ease and remission are to be done, and the gentler sentence is to be followed, and the last burden to be imposed, and the smallest legacy to be paid and received, or the most advantageous sense of favour is to be pursued: but all the difficulty will be, to whom the ease or the advantage is to be done; for sometimes one, and sometimes another, is to have benefit of the chancery. 1. For the heir is to be favoured against the legatees, unless God and religion be the legatee; for the church is to be favoured against the heir. And therefore Scævola said, that, 'If a Roman, in his testament, appointed an image to be set up in a temple, in which there were marble and brass and silver statues, the legacy was to be performed in the most costly material;' "idque favore Dei et religionis," says the law [f]; because, in doubts, it is fit that God should have the pre-eminence; and it is also to be presumed, that the testator intended to give the best unto the best. Let the instance be changed, and it is a good measure for conscience in the causes and questions of Christians. 2. The heir of the donor is to be used and to be understood in the least sense, unless that least sense makes the gift un-

[e] Lib. Cum Servus, sect. Scio ff. de Legat. et lib. Unum Exfamilia, sect. Si rem tuam. ff. eod.

[f] Lib. Titia. 38. sect. fin. sup. de Auro et Argent. Leg.

profitable and good for nothing. Aruns, dying, left a servant to his brother for a legacy. Canidius, who was the heir, offers to give his uncle his man Spinax, who was the veriest rogue in all the empire. But his uncle answered, 'My brother did not intend to give me a mischief.' Then he offers him Lentillus, who was little better than a fool. To this his uncle answered, 'My brother did not intend to give me nothing.' And at last the uncle demanded Aretius, who was his brother's physician: but that Canidius refused, and he might very well; but he gave him Merula, that was a very good baker, and both were indifferently pleased: but such a one that was not the best, and yet was good for something, was due by justice. 3. Causes of repetition are to be favoured more than causes of gain. He that desires but to save himself, or to get his own, is to have the advantage of him, that, if he prevails, gets gain: and the reason is, because it is better to save a main stake, than to get an accession; it is better to have one preserved than another increased; and it is more to be presumed, that he, who demands restitution, seeks but his own, than that the other's gain is justly his. 4. He that buys in doubts of conscience and law, is to be preferred before him that sells, and the interpretation ought to be on the behalf of the first. The reason of this is, because he that sells, cannot so easily be deceived as he that buys; for every man is justly presumed to know the price of his own goods, and be cunning in his own trade. 5. For dowries, and 6. for liberty, and 7. possession, sentences are to be given in the favourable sense, because the cases themselves are full of charity and mercy; and they that complain in these cases, are commonly the oppressed party [g].

16. This rule also is intended, and that principally, in punishments and penal sentences of law.—Where if the law be obscure, it is on all hands confessed, that the sense of equity is an excellent interpretation, and declares the mind of the lawgiver; and it is also true, that, if several penalties be expressed in the law [h], ordinarily the judge is to impose the least; and the reason is, because he does at once the actions of two virtues; it is justice and it is charity at the same time. I say 'ordinarily;' for sometimes there are great examples

[g] Libertas omnibus rebus favorabilior est lib. 38. ff. de Re Judicat.
[h] Lib. interpretationes. ff. de Pœnis.

to be made, and in them there is very often 'aliquid iniqui[l],' nothing of equity, but something that was very hard. And the Hebrew kings, say the rabbins, had a power of causing the malefactor to hang, all day and all night, upon the accursed tree; though the law was more gentle, and commanded the body to be taken down before the sun set; but if the public necessity required it, the Jewish doctors say, that their kings had power.

17. But the great difficulty is, when the words of the law are express, and name the punishment, whether or no, can there be any remission by equity or interpretation? Titius, being cited to appear in court, came not, and was fined: but he came immediately. The question is, whether he ought in conscience to be relieved. It is certain, that, in law, the sentence against him is just; for let the cause be ever so odious, the law must be understood according to the propriety of the words, unless the intention of the lawgiver can otherwise be certainly known. But if by any ways he can be relieved, —he ought to be, if there be evident equity on his side. But because this equity is against the solemnity of law, it must be introduced as solemnly, that is, by a law, or a solemn decree according to the disposition of law[k]. But this latter part is matter of prudence more than of conscience; and concerning this conflict of law and equity Cicero hath spoken excellent things, as who please may see in his oration[l] 'pro Cæcina,' and in his 'lib. 2. Rhet.'—But for the practice of it, both in law and conscience, it is an excellent rule of law, "Capienda est occasio, quæ præbet benignius responsum;" An occasion must not be forced against a law; but if any can be found, it must be used in the behalf of equity. And therefore Celsus, Marcellus, and Ulpian, are noted with a fair memory for being studious of equity in the sentences of law: and for this very thing Cicero[m] commends Servius: but Scævola, Paulus, Julianus, and the Sabiniani, and some others, were more propense to rigour and subtilty, and were less beloved.

Triste rigor nimius? Torquati despue mores[n].

Titus Manlius was to blame in putting his son to death for

Habet aliquid ex iniquo omne magnum exemplum, quod contra singulos utilitate publica rependitur. Tacit. Annal. xiv. 44. Ruperti, vol. 1. pag. 386.

[k] Lib. 168. ff. de Reg. Jur. [l] Cap. 18. [m] Philip. 9.

[n] Claudian. de 4. Cons. Honor. 403. Gesner, vol. 1. pag. 111.

a glorious victory gotten by a little offence. But all good laws were ever desirous of easy interpretation, when the matter itself was a burden: and it was well said of Gattinara[o] to the emperor Charles V., "Chi vuole troppo abbracciare, va à pericolo di non strignere cosa alcuna;". "He that strains the cord too hard, breaks it, and can bind nothing." "Periculosum est prægrave imperium: et difficile est continere quod capere non possis," said Curtius[p]. He that fills his hand too full, lets go more than he should. There is a measure in laws, which must not take in every thing, but let some things pass gently; for a government that is too heavy is dangerous: and therefore, without all peradventure, when the punishments are general, the least special ought to be taken. Thus gentlemen are not to be punished with the punishment of slaves and vagabonds. If bodily punishment by law be commanded, scourging is to be understood, or such as is in use in the nation, and not the cutting off a member, or putting to death, say the Greek lawyers[q]. And there is no exception to this, but this only, that this is to be understood in lighter offences, not in greater; for in these it may be of as much concernment to justice that the severer part be taken, as it is to charity, that lighter offences should carry the lighter load. And therefore the Senat. Cons. Syllanianum decreed, that, if a slave had killed his lord, all the slaves in the house should die for it. It was a hard and a severe law; but it was a great crime, and by great examples the lives of masters were to be secured; and to this purpose C. Cassius the lawyer defended it with great reason, as is to be seen in his oration in Tacitus[r].

18. (3.) In matters of favour and matters of piety, the sense of the law is to be extended by interpretation. Things odious and correctory are called 'strictæ' in the law; and that which is favourable, is called 'res ampla;' because as the matter of that is to be made as little as it may be, so the matter of this may be enlarged. Thus if any thing be done in the favour of the children, the adoptive and the natural are included, when it is not to the prejudice of the legitimate. And that which is made legitimate, is to be reckoned as that, which is so of itself; and he that is naturalized, is to be reckoned

[o] Apud Guicciard. lib. 16.—Gall. Proverb. Qui trop. embrasse, mal estreint.
[p] Lib. 4. [q] Ad lib. Pen. de Pœnis. [r] Ann. xiv. 44.

as a native; and a freedman, as he that was born free; and the privileges, granted to a city, are to be extended to the suburbs. But this rule is to be estimated as the former, there being the same reason of contraries, save only that there is, in the matters of favour, something of particular consideration. For although it is, by the former measures, set down who are the persons, and which are the causes to be favoured and eased; yet those persons are not in all cases to receive the advantage; that is, they are, in all cases, which the words of the law can bear, except that, by that favour, the whole process be evacuated, or the thing be lost. Therefore although the guilty person is favoured in all the methods and solemnities of law, where the law can proceed; yet where the favour would hinder the proceeding, the accuser and not the guilty person is to receive it. For the accuser hath the advantage of taking his oath in law, which the guilty person hath not; because the law supposes he will deny the fact, right or wrong. And thus we are also to proceed in our private intercourses of justice and charity, we are rather to believe the accuser swearing, than the accused. But if the accusation be not sworn, or if the guilty person be brought into judgment upon suspicion only, and a public fame,—we are rather to believe the accused swearing his innocence, than the voice of fame or uncertain accusers.

Sect. 2. *Judicial Interpretation.*

RULE II.

When the Power that made the Law, does interpret the Law, the Interpretation is authentical, and obliges the Conscience as much as the Law; and can release the Bond of Conscience so far as the Interpretation extends, as much as if the Law were abrogated.

1. When the law is interpreted by the emperor, "ratam et indubitatam habendam esse," say the lawyers. The reason is plain and easy. The law is nothing but the solemn and declared will of the lawgiver; and he that speaks, best knows his own mind; and he that can take away the law,

can alter it; and he that can cut off the hands, may certainly pare the nails: and since the legislative power never dies, and from this power the law hath its perpetual force, and can live no longer than he please,—by what method of law soever he signify his mind, whether it be by declaring the meaning of the law, or by abating the rigour of it, or dispensing in the case, or enlarging the favour, or restraining the severity; it is all one as to the event and obligation of conscience. The interpretation is to the law, as the echo to the voice; it comes from the same principle, and though it speaks less, yet it speaks oftener, and it speaks enough, so much as is then to be the measure of the conscience in good and evil.

2. For when the lawgiver does interpret his law, he does not take off the obligation of the law, but declares, that, in such a case, it was not intended to oblige. Tacitus tells of a Roman knight, who having sworn to his wife that he would never be divorced from her, was, by Tiberius, dispensed with, when he had taken her in the unchaste embraces of his son-in-law. The emperor then declared, that the knight had only obliged himself not to be divorced, unless a great cause should intervene. Thus we find that Pope Lucius III.[s] did absolve them from their oath, that swore they would not speak to their father or mother, brother or sister, or show them any kindness: but this absolution quitted them not from the sin of a rash and impious oath, but declared that they were not bound to keep it. "Absolvit, i. e. absolutum ostendit[t];" as Pope Nicolas did, in the case of the Archbishop of Triers, he declared him to be at liberty; and the gloss[u] derives a warranty for this use of the word, out of the prophet Isaiah.

3. It was ill said of Brutus, that a prince might not be more severe, nor yet more gentle than the law. For there are many things, "quæ natura videntur honesta esse, temporibus sunt inhonesta," saith Cicero[x], "which, at first sanction of the law and in their own nature, are honest, but in the change of times and by new relations, become unjust and intolerable:" and therefore the civil law[y] allows to princes, a power "juvare, supplere, corrigere," "to help, to

[s] Cap. Cum quidam. sect. Illi Vero de Jure.
[t] Cap. Auctoritatem, 15. cap. 6.
[u] Gloss. Magn. Verb. Absolvimus.
[x] Lib. 3. de Offic.
[y] Lib. Jus a sect. 1. de Just. et Jure.

supply, to correct," the laws. For those are but precarious princes, who, when they see a case that needs a remedy, cannot command it; but like the tribunes of Rome, who, when they offered to intercede and interpose between Fabius and the sentence of Papyrius the dictator, by which Fabius was condemned,—could effect nothing, till they went upon their knees in his behalf. But it is worse, that the laws of a nation should bind the prince, as Jupiter in Homer[a] was bound by the laws of fate, so that he could not help his son Sarpedon, but sat weeping like a chidden girl. But of this I have already given sufficient accounts. The supreme power "dominus legum, canon animatus in terris, lex animata, fons justitiæ, supra jus dispensare potens," as Innocentius[a] said of himself; and therefore of this there can be no question. "Inter æquitatem jusque interpositam interpretationem nobis solis et oportet, et licet inspicere," saith the emperor[b]; "The prince alone hath power to intervene between equity and strict law by his interpretation." This is now to be reduced to practice.

4. First, This power must be administered with nobleness and ingenuity; not fraudulently, or to oppress any one, which Cicero[c] calls "calumniam, et nimis callidam, sed malitiosam juris interpretationem," "a crafty and malicious commentary." Such as was that act of Solyman, who after he had sworn never to take from Ibrahim Bassa his life, killed him when he was asleep,—because Talisman, the priest, declared that sleep is death. Thus the triumviri, in Rome, having a mind to kill a boy. which, by the force of law, they could not do, they gave him the 'toga virilis,' and forced him to be a man in estimation of law, that, by law, they might oppress him. And Mithridates, king of Armenia, thought himself secure, when Rhadamistus, the son of Pharasmanes the Iberian king, had promised he would neither stab nor poison him; but the young tyrant interpreted his promise maliciously, when he oppressed him with pillows and feather-beds. And all Europe hates the memory of the Archbishop of Mentz who, having promised to Atto Adel, a Palatine of Franconia, that he should safely return out of his castle, did indeed perform the letter of his word; but pretending kindness as well

[a] Il. v. 459.
[b] C. de Leg. et Const. Princ.
[a] Cap. Proposuit. de Concess. præbend.
[c] De Offic. lib. 1. 10. 8. Heusinger, p. 82.

as justice, when he had brought him forth out of the castle, passionately invited him to breakfast, and then killed him when he re-entered. The power of princes to give senses to their laws, must be to do justice and to give ease to the pitiable and oppressed.

5. Secondly, This power is not to be administered but upon grave and just causes: for to be easy and forward in bending the laws by unnecessary interpretations, is but a diminution of justice, and a looseness in government; as was well observed by Livy [d], speaking of those brave ages, in which the Roman honesty and justice were the beginning of the greatest empire in the world: "Sed nondum hæc, quæ nunc tenet seculum, negligentia divum venerat; nec interpretando sibi quisque jusjurandum et leges aptas faciebat, sed suos potius mores ad ea accommodabat;" "The neglect of the gods and the laws, was not gone so far as to bend the laws to the manners of men, but men measured their manners by the laws:"—and then no man can deny to a prince leave to derogate from his laws, by such interpretations. "Licet enim regi in civitate cui regnat, jubere aliquid quod neque ante illum quisquam, neque ipse unquam jusserat," saith St. Austin [e]; "A king, in his own dominions, may command that, which neither any man before him, or himself before that time, commanded:" meaning, that although he must govern by his laws, yet, when there is a favourable case, he may give a new sense to them, that he may do his old duty by new measures. Thus Solomon absolved Abiathar from the sentence of death, which, by law, he had incurred,—because he had formerly done worthily to the interests of his father David. Thus when Cato, censor, had turned Lucius Quinctius Flaminius out of the senate, the majesty of the Roman people restored him; and though they had no cause to do it, yet they had power. Now this power, though it may be done by interpretation, yet when it is administered by the prince, it is most commonly by way of pardon, absolute power, and prerogative. Thus princes can restore a man in blood. "Fas est cuivis principi maculosas notas vitiatæ opinionis abstergere [f]." So Antony, the emperor, restored Julianus Licinianus, whom Ulpian the president had ba-

[d] Lib. 3. cap. 20. Ruperti, vol. 1. pag. 199. [e] Lib. 3. Confess. cap. 8.
[f] Cassiodor. lib. 3. var. ep. 46. lib. Cum Salutatus. cap. de Sent. Pass.

hished. When a law determines, that, under such an age, a person shall be incapable of being the general of an army, the supreme power can declare the meaning of the law to be, unless a great excellency of courage and maturity of judgment, supply the want of years; in which very case Scipio Africanus said wisely, when he desired to be employed in the Punic war, "se sat annorum habiturum, si populus Romanus voluerit," "he should quickly be old enough, if the Roman people pleased." Thus Tiberius put Nero into the senate at fifteen years of age, and so did Augustus the like to Tiberius and his brother; and the people declared or dispensed the law in Pompey's case, and allowed him a triumph before he had been consul or prætor.

6. But to this there is not much to be said; for he that can make a new law, may, by interpretation, change the old into a new; that is, any interpretation of his is valid, if it be just, naturally just, though it be not according to the grammar or first intention of the civil or municipal law: "quia si leges condere soli imperatori concessum est, etiam leges interpretari solo dignum imperio esse oportet[g]." He that can do the greater, can do the less; and he that hath power of cutting off the head, can dispose of the tongue as he please; so that if it will not speak what he would have it, he can take a course, it shall speak nothing against him. But the case is otherwise in judges.

7. For the interpretation of laws, made by judges, is matter of fidelity and wise dispensation, but nothing of empire and power; and it is a good probable warranty of conscience, but no final determination in case any cause of doubt happens to oppose it. And this was well observed by Cicero[h]: "Nemo apud judices ita solet causam agere; 'ignoscite, judices; erravit; lapsus est; non putavit; si unquam posthac.' In senatu vero, et apud populum, et apud principem, et ubicunque juris clementia est, habet locum deprecatio." No man is to ask any favour of the judges, but what the law allows him; but of the prince, he may:

> A quo sæpe rei, nullo licet ære redempti,
> Accipiunt propriam donato crimine vitam.

For what is wanting in the provisions of law, he can make

[g] Lib. ult. cap. de Legib.

[h] Pro Ligar. cap. 10. §. 5. Wetzel, p. 301.

up by the fulness of his power: and if there be no injury to any, let there be what favour or indulgence he please, his interpretation is good law, and can bring peace to the conscience in the particular. According to this is that of the lawyers[1]: "Qui jurato promisit judicio sisti, non videtur pejerasse, si ex concessa causa hoc desciuit;" "He that hath sworn to appear in judgment, is not perjured, if he have leave given him not to appear:" meaning, from him that can interpret the law, or dispense, declare the man not bound, or give leave to break it. But when the judges interpret a law, they either expound it by customs of the court or country, or else by learning and wise conjectures. Interpretations by prevailing and allowed customs are good law and sure measures of action according to the doctrine of customs; of which in part I have given account, and shall yet add something in the sixth section of this chapter; and therefore, I shall add nothing here. But if the judges' interpretation be only doctrinal, it is sufficient to us that it is not introductive of a law, and it cannot, of itself, be a resolution of conscience; but is to be made use of according to the doctrine of probabilities[k]. This only is to be added, that if the authorized judges do consent, and by a delegation of power, or the customs of the nation, or the disposition of the law, the sentence does pass "in rem judicatam," "into a legal sentence," then it obliges as a law; for it is a warranted interpretation and declares the sense of the law, and consequently does bind the conscience.

Sect. 3. *A contrary or ceasing Reason.*

RULE III.

A Law made for a particular Reason, when the Reason wholly ceases, does no longer oblige the Conscience.

1. The title of this section implies a distinction of reasons considerable in this particular. For sometimes it happens, that only one reason dies, and there is no other change; but that the efficient cause of the law, from whence it had its being, is dead. But sometimes it is more than so; for not only the

[1] Lib. ult. ff. qui Satisd. Cog. [k] Lib. 1. chap. 4.

reason of the law is gone, but a nettle is risen up in the place of it, and that which was once profitable, is become intolerable; and that which was just, is now dishonest; and that which was righteous, will not be righteous still, but against the public interest. Now when a contrary reason does arise, there is no peradventure but the law ceases: and this is to be extended not only to the case of injustice or impossibility, but of trouble or of uselessness; that is, if the contrary reason makes them so that the law could not justly have been imposed, or if it had been 'de facto' imposed, it could not oblige the conscience, then the conscience is restored to liberty and disobligation. But then this case must be manifest: for if it be doubtful, the law retains her power; for it is in possession, and the justice of it is presumed.

2. But if the reason of the law ceases only, and no more, there is some more difficulty; for, it may be, the will of the prince does not cease, and he intends the law should last for the support of his authority; and that will be reason enough to keep up a law, that once was good and now hath no harm in it: and there ought to be a great reason that shall change a custom, though it be good for nothing; and where there was a law, a custom will easily be supposed, especially if the law was useful and reasonable, as we suppose in the present case. And if the law did prevail unto a custom, and that it be not safe to change a custom,—then, though the proper reason of the law be ceased, there is another reason arisen in the place of it, that will be enough to bind the conscience to obedience. For the stating of this question, it is still necessary, that we yet first distinguish, and then define.

3. Some laws have in them a natural rectitude or usefulness in order to moral ends, by reason of the subject-matter of the law, or by reason that the instance of the law is made an instrument of virtue by the appointment of law. Others have only an acquired rectitude, and an extrinsic end; that is, it was by the lawgiver commanded in order to a certain purpose, and beyond that purpose it serves for nothing. Thus when a prince imposes a tribute upon a country for the building of certain bridges,—when the work is done, the tribute is of no public emolument. But if he imposes a fast upon Wednesdays and Fridays for six months, to obtain of God to remove the plague from a city or a country, though

the plague be gone before the end of four months, yet the fast may serve many other good ends.

4. Another distinction to be considered is concerning the cessation of the reason of the law, whether the reason be intrinsical or extrinsical. For sometimes the reason ceases universally. Sometimes it remains as to the generality, but is altered in the particular cases. So if a superior commands, that none of his subjects shall enter into such a family, where there are many fair women amorous and young, lest such a conversation should tempt them to wantonness; the general reason of the law remains, although Alexis be a eunuch, and old Palæmon have a deadly palsy upon him, and cannot be warmed by such fires. The reason ceases in the particular, but abides still in the general.

5. A third thing is also to be observed, which hath in it some difference of case. Sometimes there are many parts of a law, and sometimes it is uniform, and hath in it but one duty. That, which hath parts and is a combination of particulars, may cease in one or more of them, and the rest abide in their full usefulness and advantage. And these and all the former may be useless, or their reason may cease for a time, and be interrupted, and awhile after return: and, in all these, the reason may cease negatively, or contrarily; that is, the first cause may cease, or another quite contrary may come.

According to these distinctions, the cases and the answers are several.

6. If there be two ends in the law, an extrinsical and an intrinsical; though the extrinsical be wholly and generally ceased, yet the law obliges for its intrinsic reason, that is, when it commands an act, of itself, honest and virtuous. Thus if a prelate or a prince, commands women in churches to sit apart, and to wear veils, that they may not be occasion of quarrels and duels amongst young gentlemen; if it happen that the duelling of gallants be out of fashion, and that it be counted dishonourable to fight a duel, then that end of the law ceases; and yet because it is, of itself, honest, that women should have a veil on their head for modesty's sake, and "because of the angels," this law is not to cease, but to stand as well upon one leg, as it did before upon two. But this can only be when divine and human laws are complicated; or, at least, when human laws are mixed with a mat-

ter of perfection and counsel evangelical, or of some worthiness, which collaterally induces an obligation distinct from the human law.

7. If a law be appointed for an extrinsical end, when that reason ceases universally, though there be an inherent and remaining worthiness in the action, and an aptness to minister to a moral end,—yet that law binds not, unless that moral end was also intended by the lawgiver. For that which was no ingredient into the constitution of the law, can have no power to support the law; for it hath nothing to do with the law; it never helped to make it; and, therefore, by it cannot be a law, unless by the legislative power it may be made anew. So that such actions, which can be good for something of their own, and are not good at all for the end of the lawgiver, can only be lawful to be done, but they are not necessary. Therefore when a law is made, that, every Thursday, the subjects shall go to church to morning-prayer, that they might, in the public offices, pray for the life of the prince,—if the prince be dead, that law obliges not; for although going to morning-prayer is of itself good, yet if the prince had no consideration of that good, but of his own, that good entered not into the law, and had no causality in it, and, therefore, was no part of the duty of the subject in relation to that law.

8. If the action, commanded by law, be in itself indifferent,—when the reason of the law ceases extrinsically, the whole obligation is taken away; because the act is good for nothing in itself, and good for nothing to the commonwealth, and therefore cannot be a law. Thus there was an oath, framed in the universities, that no professor should teach logic publicly any where but there,—meaning, that it should not be taught in Stamford, whither the scholars made so long a recess, that it had almost grown into a university. But when the danger of that was over, the oath was needless, and could not oblige, and ought not to have been imposed. In Spain, a law was made, that no man should cut any timber-trees: in a few years the province grew so full of wood, that the reason and fear of the law were over; and it was more likely to pass into inconvenience by abundance than by scarcity; and, therefore, then it was lawful for any man to cutsome of his own. So if a law were made, for ten years,

to forbid hunting of wild beasts, that some royal game which was almost destroyed, might be preserved for the prince,—if, in five years, the wolves and lions were grown so numerous, that there were more danger than game, the law were no longer obligatory. For as Modestinus[1] said well, "Nulla ratio aut juris benignitas patitur, ut quæ salubriter pro hominum commodis statuta sunt, nos duriore interpretatione contra ipsorum commodum producamus ad severitatem;" "It is against reason, that what the law decreed for the good of men, should be severely and rigorously expounded to their damage." And this is to be understood to be true, though the reason of the law ceases only negatively; that is, though the act do still remain indifferent, and there be no reason to the contrary. To which this is to be added, that when the reason of a law, commanding an action otherwise indifferent, does cease universally, the very negative ceasing passes into the contrary of itself: not that it does so in the matter of the action, for the action is still indifferent and harmless; but that it does so, in the power of legislation; it does not so to the subject, but it does so to the prince; that is, the subject may still do it without sin, but, without sin, the prince cannot command it to be done, when it is to no purpose. Thus we find in the legends of the Roman later saints, that some foolish priors and superiors of convents would exercise the obedience of their monks by commanding them to scrape a pebble, to fill a bottomless tub, and such ridiculous instances; which were so wholly to no purpose, that though the monk might suffer himself to be made a fool of, yet he was not tied to it in virtue of his obedience, and the prior did sin in commanding it. This ought to be observed strictly; because, although it looks like a subtilty, yet it is of use in the conduct of this rule of conscience, and hath not been at all observed exactly.

9. When the intrinsical reason of a law does cease universally, the negative ceasing of the reason passes into a contrary; and, if the action be not necessary, it is not lawful. For actions, which have in them an internal rectitude, have it so always; unless the case be wholly changed, and then it is become very evil. To restore that which is deposited with us, is commanded because of the natural justice,

[1] Lib. Null. ff. de Legibus.

that is in the action; but when the reason of this ceases, that is, that it is not just to do it, it is unjust, or uncharitable: and therefore if you restore to a madman his sword to kill an innocent, you are unjust to innocence, and but equivocally just to madness and folly.

10. When a law hath many parts, and is a conjugation of duties for several reasons, when one of the parts of the law does lose the reason of it wholly, though it be tied in the same bundle, and by the same tie, yet that part is slackened and obliges not, though included in a law which does oblige. The reason of this is the same with the former; only this is to be added, that in this case it is not one law, but a conjugation of laws; it is not a single star, but like a constellation, and particularly as the Pleiades, where one of the seven hath almost no light or visibility, though knit in the same confederation with those, which half the world do at one time see. And the same also is the case in the suspension of a law, that is, when the reason ceases universally and wholly, but not for ever: while the reason is absent, the conscience is not tied to attend; but when it returns to verify the law, the duty returns to bind the conscience. But in this there is no difficulty.

These are the measures of conscience, when the reason of a law ceases wholly and universally; that is, as to the public interest: but that which is more difficult, is, when the reason of the law remains in the general, but it fails in some particular cases, and to particular persons: and what then is our duty, or our liberty?

11. The reason of the difficulty is, because laws are not to regard particulars, but that "quod plerumque accidit," saith Theophrastus; and therefore the private damage is supplied by the public emolument: and the particular pretences are not to be regarded, though they be just, lest others make excuses, and the whole band of discipline and laws be broken. "Satius erat à paucis justam excusationem non accipi, quam ab omnibus aliquam tentari," said Seneca; "It is better to reject the just exception of a few, than to encourage the unjust pretensions of all."—And therefore subjects should, for the public interest, sit quietly under their own burden. For "lex nulla satis commoda est; id modo quæritur, si majori

parti et in summa prodest," said Cato: "It is a just law, if it does good to the generality and in the sum of affairs." And, therefore, if Caius or Titius be pinched in the yoke, they may endure it well, when they consider the public profit.

12. But this were very true only in case there were no other remedy: but our inquiry here being only a question of conscience, which is to be judged by him that commands justly in general, and will do no injustice in particular, and can govern all things without suffering them to entangle each other, the case will prove easy enough: for if God does not require obedience to the laws, when the reason of the law ceases in particular, of them, I say, in whose particular case the reason ceases, it is all that is looked for. Now for this the conclusions are plain.

13. If the extrinsic reason of the law ceases in a particular case olny negatively, that is, so as no evil, grievous burden, sin, or danger, be encumbered upon his person, the law retains her obligation and is to be obeyed; because in that case, although there be no reason in the subject-matter, yet there is reason enough in the reverence of the law, and in a conformity to the public manners of the nation. Thus when the law forbids a citizen to bear arms in the night because of frequent murders that have been done, or are apt to be done, by armed night-walkers;—he that knows himself a peaceable man, and that is resolved to offend nobody, is not bound by the reason of that law in his own particular, but he is bound by the law as long as the public is bound whereof he is a part: for if he have no reason to the contrary, but only there is no reason for it in his case, it is reason enough, that there is a law in the case, which is useful to the public, and of great interest as to the communities of men. And therefore he that disobeys in these circumstances, cannot be excused from contempt of the law: because though his obedience be causeless, yet so is his disobedience, and this cannot be innocent, though that can; especially because though the obedience be causeless in his own particular, in relation to that matter, yet it hath cause enough in it in relation to example and the veneration of the laws.

14. If the reason of the law ceases contrarily, that is, turns into mischief; then though it ceases only in a particular, and in that particular, the subject whose case it is, is free;

from the law, I mean, but not free to obey it. Whatever we have vowed to religion or the temple, we are bound to perform: but if in the interval of the solution, my father or my nearest relative, or any to whom I am bound to show piety, be fallen into want, or needs my ministry,—I am bound to do this first and let that alone, till both can be done: and the reason is, because I could not bind myself by vow to omit any duty, to which I am naturally obliged; and therefore though the law that commands payment of vows, be just,—yet it must be always with exception of preceding obligations: so that if it be certainly a sin, which is consequent to the obedience of any law,—it is certainly no sin to disobey it.

15. If, the general reason of the law remaining, in some particular cases it ceases contrarily, but not so as to introduce a sin, but a great evil, or such a one which the law would not have commanded, and the lawgiver is supposed not to have intended,—the law does not oblige the conscience of the subject in that case. For here is the proper place for equity. In the former case, it is duty not to obey the law. Either then there is no equity, but what is necessary and unavoidable;—or if there can be any shown or used by prudence and great probability, and in mercy,—it follows that then it is to be used, when the yoke pinches the person, though it does not invade the conscience. And it is not to be supposed, that a superior would have his laws burdensome to any one beyond the public necessity; it being as certainly in his duty to be willing to ease single persons in their private burdens, as to provide for the common interest in their great and little political advantages. Τό, τε γὰρ ἐπιεικὲς, δικαίου τινὸς ὂν, βέλτιόν ἐστι δίκαιον, "Equity is as much law as the law itself, it is as just as justice, only that it is a better justice," saith Aristotle[m]: it is not δίκαιον νόμιμον "the legal justice," but ἐπανόρθωμα νομίμου δικαίου, "a rectification and an amendment of it."

Bonum jus dicis; impetrare oportet, quia æquum postulas,

said he in the comedy[n]; "It is fit that you prevail, you ask reason and equity." That is 'bonum jus;' it is justice and mercy in a knot. Thus if a church commands such ceremonies to be used, such orders, such prayers, they are to be

[m] Ethic. lib. 5. cap. 10. Wilkinson, p. 222.

[n] Plaut. Stich. 5. 4. 44. Ernesti, vol. 2. pag. 373.

observed, when they may; but if I fall into the hands of an enemy to that manner of worship, who will kill or afflict me greatly for using it, I am in that case disobliged. For though this case be not excepted in the law, yet it is supplied by the equity and correction of the law: ὀρθῶς ἔχει, ᾧ παραλείπει ὁ νομοθέτης, καὶ ἥμαρτεν ἁπλῶς εἰπών, ἐπανορθοῦν τὸ ἐλλειφθὲν, "it is fit that when the lawgiver hath commanded absolutely and indefinitely, he should, in cases of particular evil, make provision, and correct what was amiss or omitted by the law." For εἰ ᾔδει, ἐνομοθέτησεν ἄν, says Aristotle[o]; "if he had known of it before, he would have had provided for it beforehand:" and because he did not, ὁ νομοθέτης οὕτως ἂν εἴποι ἐκεῖ παρών, "if the lawgiver were present," he would use equity, and give leave to the grieved subject to ease himself. And therefore since it is reasonable to suppose, that, if it had been thought of, this very case would have been provided for in the law; and if the lawgiver were present, he would declare the law in that case not to oblige;—it follows undeniably, that the law binds not any man to a great inconvenience in his own person, though otherwise, and as to the public, it be a just and a good law, of a remaining reason and a remaining obligation. In order to this consideration, that is useful which hath been already said in the first chapter of this book, in the second and third rules.

16. If the reason of the law ceases in a particular, so that, without sin, it may be obeyed, and without any great and intolerable evil to the obedient, yet sometimes the law does not intend to oblige in the particular case, even when there is a little inconvenience, or but a probable reason to the contrary; and this in things of small concernment. I should instance in rituals and little circumstances of ecclesiastical offices and forms of worship, in the punctualities of rubrics, in the order of collects, in the number of prayers, and fulness of the office upon a reasonable cause or inducement to the omission or alteration: for these things are so little, and so fit to be intrusted to the conduct of those sober, obedient, and grave persons, who are thought fit to be trusted with the cure of souls; and these things are always of so little concernment, and so apt to yield to any wise man's

[o] Ubi supra.

reasons and sudden occasions and accidents, and little and great causes, that these were the fittest instances of this rule, if superiors, for want of great manifestations of their power, would not make too much of little things. But the purpose and declared intention of all just laws and just government is, in these things, to give the largest interpretation to persons of a peaceable mind and an obedient spirit, that such circumstances of ministries may not pass into a solemn religion,—and the zeal of good men, their caution, and their curiosity, may not be spent in that, which does not profit. But the measures of practice in this particular must be taken from the manner and circumstances of the government, and the usual disposition of the law. In many cases, an equity may be presumed: but if it be explicitly denied, it must not be used.

Question.

17. But, upon the instance of these particular rules, it is to be inquired, 'Whether, in these cases, the subject is so quitted from the obligation of the law, that, without further leave, he may use his liberty;—or must he require it of his superior?'

18. To this I answer, that, if the case be evident, the subject may use his liberty: for if he should be tied to go to his superior, it is either to ask of him that the law should not bind him, or that he may declare, that the law, in his case, does not bind,—or to promulgate and publish the law in that particular. Not to ask leave that the law shall not bind,—for, of itself, it ceases, and it was never intended to bind against equity and reason. Not for declaration,—because the case is here supposed to be evident. Nor yet, lastly, for promulgation,—because that is only necessary in the sanction and revocation of laws, which depend upon the will of the prince; whereas, in this case, the law ceases by natural justice and the nature of the thing, and the reasons of equity.

19. But if the case be doubtful, and it is not evident whether the particular case ought to be excepted in the general law, then we are to consider, whether it be a doubt of fear only or a doubt of reason, that is, whether it be nothing but an unjust fear, or relies upon just grounds; for some men may easily perceive in themselves a diffidence in any

thing; not that they have reason to cause their fear, but because they dare not trust the greatest reason, that they either have or hear. If it be only a doubt of fear, then it is to be conducted by the rules given[q] concerning a scrupulous conscience: if it be a fear of reason, we are to manage it by the measures of a doubting conscience. But if he supposes, upon probable inducements, that he is not obliged, then according to the nature of the probability we are to proceed. For if he believes it as probable, that such a case ought not to be comprehended in the law, as supposing it to be a sin that in his case would be commanded, or too great a burden imposed, and so to be beyond the power of the lawgiver, then the subject may, of himself, be free, without recourse to his superior. The reason is, because to avoid a sin, or to do a great charity to ourselves, a probable reason is a sufficient inducement, provided a more probable reason be not opposed against it, we being commanded to "avoid all appearance of evil." Now if this opinion be the more probable, that by obeying the letter of the law in my case I should sin, it must needs appear to be an evil to do it; and not to obey the law, in this case, does not appear to be an evil, as being the less probable; for if the opinions be equally probable, then the conscience is in doubt, and is to proceed by measures fitted to a doubting conscience: but when I say there is a greater probability and a less, the greater must carry it; and therefore the law is not to be obeyed, it being here supposed to be the more probable opinion, that the obedience would produce a sin. So also, in the case of a great burden or intolerable pressure, the presumption is for ease; and the lawgiver is to be supposed good and gentle and reasonable; and besides, it is to be supposed as the more probable opinion, that the lawgiver hath not power to make a law or to oblige to so much inconvenience, and then the case is the same. But if he believes it as probable, that to oblige in the present case was not in his will, but it is certain that it was in his power, then the case is so that the subject may, without injustice or violence, obey it; and therefore ought not to use his liberty by his own opinion, but by recourse to his superior, that hath power to declare the intention of the law.

[q] Vide lib. 1. cap. 5, 6.

20. In the first case, if it be easy and convenient to go to the superior, or that there is time enough and all things fitted, it were the surer way to require his sentence. But if there be not time, and the action urges by hastiness, or necessity, or present opportunity, the liberty is as present as his need. But in the second case (which is oftentimes harder to know than the first, it being more difficult to pronounce definitively concerning the will of the lawgiver which is free, than concerning his power which is not free), when it is only probable that the lawgiver is willing, it is not safe to venture upon the not obeying, without recourse to the superior. Because our innocence depending wholly upon his will, and there being no sin in keeping the law, we may safely do this; but we cannot safely disobey without being more assured of his leave: and therefore if it be opportune and easy to have recourse to our competent superior, it is worth our pains to go and inquire; if it be not opportune, it is worth our stay till it be; for the securing our duty and the peace of conscience are interests much greater than the using of an unnecessary liberty.

21. But in these cases of uncertainty, when we are not confident of a just liberty by the force of reason and the nature of the thing, we may justly presume that the superior does not intend to oblige in all those cases, in which he usually and of course dispenses; that is, when his dispensation is not of special favour, but of ordinary concession; because as in the first case, it is supposed a gift, so in this latter, it is supposed a justice. For example:—A law is made to keep so many fasting days. Mævius is a hard student, and feels himself something ill after fasting, and believes it will not be for his health; but yet things are so with him, that he can obey the law without great or apparent mischief, but yet he probably believes, that the lawgiver would not have him bound in this case. If he perceives that they, that have a recourse to the superior in less needs than his, are ordinarily dispensed with, then he hath reason enough not to go to his superior; for it is already declared, that he does not intend to bind in his and the like cases. This is evident; and the best measure that I know in such cases. It is the surest, and the largest, and the easiest.

22. When the recourse to a superior for declaration of

the case hath in it great difficulty or inconvenience, though the cause of exception from the law be not very great, yet if together with the inconvenience of address to the superior, it make up an unequal burden, and so that the particular case seem very probable to be excepted, and that in it the legislator did not intend to bind;—it is sufficient to consult with wise men and good, and, by their advice and answers, as by extrinsical causes of probability, or by any other just and probable cause of determination, to use our liberty, or to obey. The reason of this is plain necessity. Because we have no other way of proceeding; but either we must in this, as in almost all the other cases of our life, be content with the way which to us seems the more probable; or else if we were tied to make it secure, our lives and conditions would be burdensome and intolerable, and the whole process would be a snare and torment to a conscience: the superior, who is to be consulted, it may be, not being within forty miles of us; or when we come, it may be, he is of difficult access, or otherwise employed, and it will be impossible for many to be heard by him, if all in the like cases were bound to consult him; or, it may be, when we go, we shall not be admitted; or if we be, it may be, we shall not be eased, unless we carry along with us the rewards of divination in our hands; and we are poor: or, it may be, the matter requires haste, and cannot stay the leisure of the oracle; and besides all this, the greatest part of the actions of our lives are not so well conducted, as to be determined by the consultation of a wise man, but we do them of our own head, and, it may be, of our own heart, without consideration; and therefore it is a prudent course to proceed this way: and he that, in such cases, ties the consciences to proceed more than prudently, and thinks that prudence is not a sufficient warrant, does not consider the condition of human nature, nor the necessities of a man's life, nor the circumstances of his condition, nor the danger of an unquiet and a restless conscience.

23. Upon occasion of this subject, viz. the alteration of human laws by the interpretation and equity of reason, it is very seasonable, and very useful to conscience, to inquire whether, by the similitude of reason, the law may not as well receive advantage and extension, as the subject can receive liberty and ease. That is,

Question.

Whether the obligation of the law does extend itself to all cases, that have the same, or an equal reason, though the case be not comprehended directly in the laws;—

To this the answer is by several propositions.

24. In laws, declarative of natural right or obligation, the obligation extends to all things of equal reason, though they be not comprehended under the law. Thus because we are bound by the laws to pay honour and gratitude to our parents, for their nourishing of us, and giving us education, the same duty is to be extended to those persons, who took care of us when our parents were dead, or that took us in, when we were exposed; and children are to pay a proportionable regard even to their nurses; and Moses was for ever obliged to Pharaoh's daughter, because she rescued him from drowning, and became as a mother to him. And the reason of this is, because in these things there is a natural rectitude, and a just proportion between the reason and the event; the reason of the thing is the cause, why it was commanded. But in laws, dispositive or introductive of a new obligation, there is some difference. Therefore,

25. In odious cases, and especially in penal laws, the extension of the reason does neither extend the obligation nor the punishment; according to that gloss in the canon law [p], "In pœnis non arguimus ad similia, quia pœnæ non excedunt proprium casum." Punishments and odious burdens must not exceed the very case set down in the law: for if, in the cases set down, the judges are to give the gentlest measure, it is not to be supposed, that they can be more severe than the letter of the law, which itself requires an abatement and allay, when it is capable: and as it is with judges in the punishments appointed by law, so it is with all the subjects in the obligation of the law. For, in both these cases, it is to be presumed, that the mind of the lawgiver was not to oblige or to punish more, and in more cases;—for, "si voluisset, expressisset," is a good presumption in these things;—'he could as easily have spoken that as this, if he had intended both alike;' and he would, because he knows, that, in odious

[p] Gloss. in cap. in Pœnis. 49. de Reg. Jur. in. 6.

things, every one is willing to take the easiest part: and therefore that is a good warranty to presume of the mind of the lawgiver; especially since the apportioning such a punishment to such a fact, hath in it no natural necessity, but depends upon the will of the lawgiver; and therefore, is not to be extended by a participation of the reason, but by a declaration of the will.

26. When there is a defect in the law, and the public necessity or utility requires a supply,—it may be supplied; and the obligation and the judgments, even in matters of burden, can be extended by the similitude and parity of reason; for in this sense, it is true which the lawyers say, "Casus similis expresso non censetur omissus." If it was omitted only in the law, by the imperfection of its sanction, or want of consideration, the commonwealth must not suffer detriment; and, therefore, is to be helped by the parity of reason. But then it is to be observed, that this is not wholly for the force and consequence of the reason of the law, but for the necessity and profit of the republic; and, therefore, the supply is to be made by jurisdiction, rather than by interpretation: so saith the law[r]: "Is qui jurisdictioni præest, ad similia procedere, atque ita jus dicere debet;" "The præfect that hath jurisdiction, must do right by proceeding to the like cases:" so that the jurisdiction and power is the sufficient, and indeed the adequate, efficient of this supply; only, by the similitude of reason, he that hath jurisdiction, can take occasion to do right. "Quando lex in uno disponit, bonam esse occasionem cætera, quæ tendunt ad eandem utilitatem, vel interpretatione vel certa jurisdictione supplendi[s];" "The law having made provision in one case, it is a good occasion to supply other cases, which tend to the same advantage; but this supply is to be made either by interpretation, if it can, or if it cannot, then by certain jurisdiction and authority." So that here are three things, to be considered in this extension of obligation. The one is, that the law be defective and need supply. The second is, that the supply be for the same utility and advantage, which is in the expressed case of the law. And the third is, that if it cannot be by interpretation, that is, if it cannot be done by force of something contained in the law, but that there be a very defect in the law,

[r] Lib. non Possunt ff. de Leg. [s] Lib. nam. ff. end.

—it be done by the force of authority: for the similitude of reason is not enough; and, therefore, either the supreme, or a jurisdiction delegate with this power in special, is necessary. But where there is such a power, the way of doing it is 'procedendo de similibus ad similia';' the occasion of supply must be taken from the similitude of the reason. But this, I say, is to be done either in cases of public necessity, or great equity and questions of favour: in other cases, there are yet more restraints.

27. A similitude of reason, except in the cases now expressed, does not extend the law to cases not comprehended in the words and first meaning of the law. For "ratio legis non est lex, sed quod ratione constituitur," say the lawyers[t]; "every thing that is reasonable, is not presently a law,—but that is the law, which, for that reason, is decreed." And when a thing is propounded to a prince, it is in the body politic, as in the body natural; though the understanding propound a thing as reasonable, the will still hath power to choose or to reject it; and there may be reason for the thing in one regard, and reason against it in another; and if the reason in both cases only be alike, they are also unlike. 'Omne simile est etiam dissimile.' For Titius contracts friendship with Callinicus, because their fathers were fellow-soldiers in the Parthian war, and they loved well: but Titius refuses to contract the same league with Catulus, although the like reason was for him, his father having been in the same legion, in the same war; but Catulus was an ill-natured man, and not fit to be entertained into such societies.

28. The conscience is not bound to a greater duty, than is expressed in the words and first meaning of the law, by the proportion and communication of the reason, unless the reason be not only alike, but be absolutely the same in both cases; and not only so, but that the reason was adequate to the law, that is, was the reason which actually and alone did procure the sanction of the law. When Cæsar took-in a town in Gallia Narbonensis, he destroyed the walls, and commanded they should not build any more walls: they consented, but cast up a trench of earth; and he came and fired their town, because although a trench of earth was not

[t] Glossa in legem Prædict. [u] Albertus Bologneti Bonon. in Tract. D. D.

in the words of the contract, or prohibition,—yet, because Cæsar forbade the rebuilding of the walls, for no other reason but because he would not have it fortified, the law against walls was to be extended to trenches also, for the identity of an adequate reason. To the same purpose is that of Quintilian[z]: "Cædes videtur significare sanguinem et ferrum: si quis alio genere homo fuerit occisus, ad illam legem revertemur." A law against murder, does commonly signify shedding of his blood; but if a man have his neck broken, or be smothered with pillows, or strangled with a bowstring, he shall be avenged with the same law, that forbade he should be killed with a knife or dagger: for it was not the instrument or the manner which the law regarded, but it wholly intended to secure the lives of the subjects.

29. Now this identity of reason must be clear and evident, or else it effects nothing; for, in matters of doubt, the presumption is for liberty and freedom. But it commonly is best judged by one or more of these following cases. 1. The relative and the correlative are to be judged by the same reason, when the reason of the law does equally concern them, though only one be named in the provision of the law. If the husband must love the wife, the wife must love the husband, though she were not named in the law. For here they are equal. But, in superior and inferior, the reason cannot be equal, but therefore is only to be extended to the proportion of the reason. A son must maintain his father that is fallen into poverty, and so must a father a son: but they are not tied to equal obedience: to equal duty they are, but not to equal significations and instances of it. A husband must be true to his wife's bed, and so must she to his; but she may not be admitted to an equal liberty of divorce, as he is: the reason is, because the duty is equal, but the power is unequal; and therefore the consequents of this must differ, though the consequents of the other be the same. 2. The identity of the reason is then sufficient for the extension of the law, when one thing is contained under another, a particular under a general, an imperfect under a perfect, a part under the whole. 3. When the cases are made alike by the effort of other laws. 4. When the law specifies but one

[z] In Declam. Patris.

case for example's sake, the rest also of the same nature and effect are comprehended. 5. When the cases are radicated in thesame principle, and are equally concerned.

30. What is here said concerning cases and actions, is also to be understood not only of persons, which cannot be separated from the consideration of actions, which are always personal,—but of places and times, when the analogy and force of the reason or the words require it. Only each of these is to observe their proper caution. Places are equally included in the meaning of the law, though they benot expressed in the words of the law, if they be within the jurisdiction of the lawgiver, that is, within the capacity of the law[y]. But the caution concerning time is this,—that although, in laws declarative, there is no difference of time, because there the present law is not the measure of our duty, but supposes the duty limited and prescribed before ('nihil enim nunc dat, sed datum significat,' saith the law[z] in this case;)—yet laws, constitutive or introductive of a new right or oblation, never of themselves regard, or can be extended to, what is past,—because this is not in our power, and is not capable of counsel or authority; but they can only be extended to the future: but the allay is this, for this is to be understood only in precepts and prohibitions, but not in matters of indulgence and favour; for in this it is quite contrary. What the law hath forbidden in time past or present, and what she hath or doth command, is to be extended to the future; but "cum[a] lex in præteritum quid indulget, in futurum vetat;" "when the law gives a pardon for what is past, and this pardon relies upon a proper reason, there is no leave given for the future to do so," though the same reason shall occur; for the pardon of what went before, is a prohibition of what is to come hereafter.

31. When a law is made to take away an evil, it is to be understood also, and to be extended, to all cases of prevention, and from an actual evil passes on to a probability. When Antiochus agreed, that Ptolemy should not bring an army into Syria, he did not only intend to remove the pre-

[y] See chapter 1. rule 8. of this book.
[z] Lib. Hæredes. sect. 1. de Testam.
[a] Lib. Cum lex. ff. de Legib.

sent hostility that he feared, but he intended also that he should not bring any at all, though for passage only through his country; because if his army were at all in Syria, he was in danger of suffering what, by his treaty, he desired to prevent.

32. Whatsoever is said in laws, is also true in promises and contracts: for these are laws to the contractors and interested persons, and to be measured by the same proportions. For when the adequate reason of a promise or contract is evidently extended to another instance, though not named in the contract, it must be performed and supposed, as included in the stipulation, and so still in the succeeding and new-arising instances: and the state of things is not changed so long as that adequate reason remains, for which the obligation was first contracted, though the thing be varied in a thousand other circumstances and accidents. But of this I shall have better opportunity to speak in the last book.

33. I only add this one thing, That there is great caution to be used in determining our cases of conscience by the measures of the reason of a law. For "non omnium, quæ à majoribus constituta sunt, ratio reddi potest," said Julian: "it will be hard to find out what was the reason of the laws made by our forefathers;" and unless the reason be expressed in the law, our conjectures are very often so wild and far amiss, that they will be very ill measures of conscience or obedience. "Et ideo rationes eorum, quæ constituuntur, inquiri non oportet; alioquin multa ex iis, quæ certa sunt, subvertentur[b]." We must obey the law, and never inquire after the reason, unless the law of itself declare it: it is not good to examine, for by this means many clear laws are made obscure and intricate. "Delicata est illa obedientia, quæ causas quærit." The lawgiver is moved to the sanction of the law by the reason of the thing; but the sanction of the law is to be the only reason of our obedience.

[b] Ff. de Leg.

Sect. 4. *Dispensation.*

RULE IV.

The Legislator hath Authority to dispense in his own Laws, for any Cause, that himself prudently shall judge to be reasonable, so that no distinct Interest be prejudiced or injured.

1. DISPENSATION differs from interpretation of laws; because this does declare the law in certain cases not to bind; but dispensation supposes the law in actual obligation, not only in general, but in this case, and to this person; and it is but like the old man's (in the fable) laying aside his burden of sticks, which he is bound to carry with him to his long home, unless some friendly person come to help him. But dispensation differs from diminution of laws by a ceasing or a contrary reason; because the law ceases, of itself, in this case, but, in dispensation, wholly by the will of the prince. And lastly, it differs from equity, because equity is law, 'melior lex,' but dispensation is a remission of the law; and the cases of equity are such, as by justice must be eased; but, in dispensations, there is nothing but benignity and favour. So that 'dispensation is a voluntary act of the prince's grace and favour, releasing to any single person or community of men the obligation of the law, others at the same time remaining bound, not only in other cases, but in the same and in the like.' For although the same and the like cases of equity do procure remission to all alike, yet in dispensations it is not so. One may be eased, and another not eased, in the very same case. And the not understanding or not considering this great and material difference, hath caused so great errors both in the understanding and in the ministries of dispensation.

2. For if we use the word improperly, dispensation can signify a declaration made by the superior, that the subject, in certain cases, is not obliged, that the lawgiver did not intend it. But this is interpretation of laws, or a declaration of the equitable part of the law, and is not properly an act of authority, but of doctrine and wisdom; save only, that that doctrine and that wisdom shall be esteemed authentical, and a warranty in doubtful cases: but if the subject did know the meaning of the law, as in most cases he may,—his conscience

is, of itself and by the intention of the law, at liberty without any such declaration; for that liberty is from an intrinsic cause, that is, from the natural equity and reasonableness of the case, and therefore claims nothing, but what the law intends and ought to intend in its very sanction. Now in these cases to require dispensation, is to ask more than is needful; it is as if one should desire his friend to untie his girdle, when his clothes hang loose about him: he needs it not; but that the wisdom and charity of the law is made an artifice to get money, and to put the subject to scruples and trouble, that he may get his ease.

3. But when dispensation signifies properly, it means an act of mere grace and favour, proceeding from an extrinsic cause; that is, not the nature of the thing, or the merit of the cause,—but either the merit of the person, or some degrees of reasonableness in the thing; which not being of itself enough to procure the favour of the law, is of itself enough to make a man capable of the favour of the prince; and if this be authority enough, that is reason enough. For since dispensation is an act of mere jurisdiction, and not of doctrine or skill, and wisdom and law, that is, it is not declarative of something already in being, but effective of a leave, which is neither unreasonable nor yet due, so that it is not an act of justice but of mercy and favour upon a fair and worthy occasion;—it must follow that the reason and causes of dispensation must be such, as are not necessary; but probable and fit to move a prince they must be, lest he do an unreasonable act.

4. All those disputes, therefore, amongst the civil and canon lawyers and the divines, whether the prince sins in dispensing without just cause, or the subject in desiring it or using it without just cause;—whether if the cause be not that, which they are pleased to call just, the dispensation be valid,—and very many more,—are inquiries relying upon weak grounds, and tending to no real purpose. For since the cause need not be necessary, but probable, it will be very hard if the prince can find out no probable reason for what he does; and harder yet to imagine, that he should do it at all, if he have not so much as a probable reason why he does it. And since the reason of dispensation is extrinsic to the cause or matter in hand very often, or else but occasioned

by the matter in hand, as most commonly it is in wise and good governments, it will be impossible but that the prince will have reason enough to do an act of kindness in his own affairs and matters of his own disposing: the prince's will being enough to satisfy us, and any good reason within or without, being sufficient for him if it does move and determine his will,—the consequent will be, that the conscience ought to be at rest, without curious inquiry into the cause, if it have a dispensation from a just and competent authority.

5. And indeed, it is not easy that the prince can be reproved for the insufficiency of the cause of dispensation: for a dispensation is not necessary to the conscience at all, when the cause itself is great and sufficient for equity; but then it is necessary for the avoiding of scandal or civil punishments in some cases, that there be a declaration of liberty and equity: but to dispense is only then proper and a fitting ministry, 1. When the law is still useful and reasonable to one or more good purposes, but accidentally becomes an impediment of a greater good; or, 2. When it is doubtful, whether the cause of equity and legal remission, without asking leave, be sufficient; for in this case, if the superior dispenses, he supplies by favour what is wanting in the merit of the cause, and makes the conscience sure, when the question itself was not sure;—or, 3. To reward a virtue, or the service of a worthy person, or to do honour or favour, mercy and benignity, upon the occasion of any reasonable consideration. These being all the causes of proper dispensations, it will be hard that every thing of this should be wanting, or that what moves a prudent prince to do it, should, by the subject, not be thought sufficient, especially since no man is judge of it, but he that does it: and therefore he that says the dispensation was for an insufficient cause, hath no sufficient cause to say it; it may be evil in the manner, or in the excess, or in the event, but not in the moving cause; because a little cause is sufficient, and therefore a little cause cannot suffice to blame it. "Nullius sensus esse præsumitur, qui sensum vincat principalem[c]." The subject's opinion can never overcome the opinion of the prince in those things, where the prince is judge.

[c] Lib. fin. cap. de Legib.

6. There is only this to be added, that he, that dispenses with a law to particular persons, be careful that it be in a matter wholly in his own power, and make no intrenchment upon religion so much as collaterally, so far as he can perceive,—nor yet that any man be injured by it. And, therefore, if a prince dispenses with any one in the matter of tribute, he must abate it from his own rights, and not lay it upon others, to their considerable and heavy pressure. If it be inconsiderable, no man is to complain, but to indulge so much to the prince's reason and to the man whom the king will honour; but if it be considerable and great, the prince ought not to do it, but upon such a reason which may repay the private burden by the public advantage: and the reason of this is not, because the supreme power cannot dispense with his own laws without great cause, but because he cannot dispense with other men's rights. And therefore when, by the laws of Christendom, the tithes were given to the curates of souls, of all the fruits arising in their parishes,—it was unjustly done of the pope to exempt the lands of the Cistertians and some other orders from paying that due to the parish-priest: for though he that hath a just power, may use it for the benefit of his subjects, yet he may not use the rights of others and give away that which is none of his own, to ease one and burden another. In cases of public necessity, this may be done,—but not for pleasure, or a little reason. And therefore dispensations must be sparingly granted; because, if they be easy and frequent, they will oppress by their very numbers. "Dispensationum modus nulli sapientum displicuit," said the canon law[d]. That which is but seldom and in small things, or in little degrees, will be of no evil effect; and that which may greatly profit one or two, will be no burden to a commonwealth: but if it be often done, and to many, it may be of evil consequent, and therefore ought not to be done, but upon a cause so weighty, that the good effect of the cause may prevail upon the pressure of the dispensation: for though this may be a favour to one or to a few, yet it is justice to all. But if the dispensations be in matters of government, or censures, or favours and mere graces, where some are benefited and no man is injured,—as in taking off irregularities, personal burdens which

[d] Cap. q. 7.

return to no man's shoulders, in giving graces beyond the usual measures of laws, dispensations in time, in solemnities of law, giving what by law could not be claimed;—in these and the like, the prince as he hath supreme power, so his good will being moved by any reasonable inducement is warrant enough for him that gives it, and for him that uses it.

Sect. 5. *Commutation.*

RULE V.

The same Power that can dispense, can also commute, a Duty; and as, in the first, it eases, so, in the latter, it binds, the Conscience.

1. COMMUTATION is nothing but a kind, or rather a particular manner of dispensation; and therefore hath in it no particular consideration differing from the former, but only such prudential advices as are useful to the ministry and conduct of it.

2. For commutation is a changing of the burden of the law into an act of it: it may be a greater usefulness but a less trouble. Thus when a public penance is enjoined to a lapsed person, who, by a public shame, would be hardened or oppressed,—the church sometimes dispenses in the obligation, and changes it into alms, "ut solvat in ære, quod non luit in corpore," that the fruit of his labours may go for the sin of his soul, and an expensive alms may be taken in recompense of his exterior humiliation.

3. But this must be done so as may be no diminution to religion, or to add confidence to the vices of great persons, who spend much more in the purchases of their lust than in the redemption of their shame, and therefore think they escape with their sin, when they enjoy it at a price.

4. It must be done never but upon considerations of piety and great regard; not because the sinner is powerful or rich: for though in matters of commutative justice neither the rich man is to be regarded for his riches, nor the poor man for his poverty; yet, in matters criminal and of distributive justice, the rich man is less to be eased, when the indulgence

makes the crime more popular and imitable by the greatness of the evil example; but he is more to be eased, when the punishment will, by reason of his greatness of honour, be too unequal a diminution to him, and cause a contempt greater than the intention of the law.

5. The commutation of the punishment, imposed by law, must, at no hand, be done at a set price beforehand, or taxed in penitentiary tables, and be a matter of course, or indifferent dispensation: for when men know the worst of the evil, which they fear, to be very tolerable and easy, it is an invitation, and does tempt to the sin. But therefore this must be done by particular dispensation; not easily, not to all, not to many, not at all for the price,—but to relieve the needs of him, who is in danger of being swallowed by too great a sorrow.

6. Commutations are not to be imposed, but when the dispensation is something of ease in a law of burden; for then to change it into a less burden is a dispensation, by a commutation of which it is properly capable. Thus when abstinence from flesh, enjoined by a law, it may be, upon good ground, is dispensed withal and changed into an abstinence from wine or strong drink, or society, or into alms. But when laws are made, which contain in them no burden, but are in order to some end of personal or public advantage, some end of virtue, or caution, or defence,—then either the dispensation (when it is reasonable to be required) must be without commutation; or if it be not, the commutation must be made into something, that shall contribute to the end intended in the law. Thus if any one hath reason to desire to be dispensed with in the publication or trine denunciation of an intended marriage, it is not reasonable, nor according to the intention and wisdom of the law, to change that law into a tax of money, though for alms and religion; but it may be done by commanding them to abstain from mutual congress, till the secret marriage can prudently be made public; because this commutation does in some degree secure the end of the law, and makes some amends for want of publication of the banns. If a deacon have reason to desire to receive the order of priesthood from one that is not his own diocesan, the bishop that dispenses with him, cannot prudently or justly require of him to give a sum of money

for the reparation of a church,—because that, though it be a good work, yet it is not in the same matter, nor does it co-operate towards the wise end of the law: but he does well, if he enjoins him to procure and carry along with him greater testimonials of his conversation and worthiness, and that he publish his intention to all his own neighbourhood, that they may, if they see cause, object against him; and he may not be promoted by a clancular ordination.

7. I might add here, that, in commutations, the pretences of charity and alms and religion must not be the cover of avaricious practices and designs; but that this, although it be useful in respect of the corrupted manners of men, yet it is nothing to the explication of this rule.

Sect. 6. *Contrary Customs.*

RULE VI.

A Custom can interpret a Law, but can never abrogate it without the Consent of the supreme Power.

1. THE doctrine of customs, both in divine laws and in human, I have already[e] explicated, so far as concerns their positive power, and the power of binding the conscience to obedience and complying. That which now is to be inquired, is, concerning their power to disoblige and set at liberty: and even this also may very well be estimated by those positive measures, and hath in it not very much of special consideration, save this only, that there is very great reason of dissenting from the commonly-received doctrine of the power of customs in this very particular.

2. For although by the consent of all the world custom can introduce a law, according to that saying of Tertullian[f], "Consuetudo in rebus civilibus pro lege suscipitur, cum deficit lex," "When there is no law, it is supplied by custom;" and this is so far to be extended, that, if the custom be reasonable, and antecedent to a law, it shall remain after the making of a law in that very matter, "nisi expresse caveatur in ipsa," "unless the law does expressly cancel it by parti-

[e] Book 2. chap. 3. rule 19. and book 3. chap. 4. rule 15.
[f] De Coron. Milit.

cular caution [g];"—yet when a law is established and is good, the force of custom is not sufficient, of itself, to annul it, and to cancel the obligation of conscience.

3. A custom can interpret a law. "Si de interpretatione legis quæratur, imprimis inspiciendum est, quo jure civitas retro hujusmodi casibus uteretur," says the law [h]. For it is to be supposed that the law was obeyed, and in that sense in which the lawgiver intended it,—and that the people do their duty in things of public concern, is a just and a legal presumption: and therefore nothing is more reasonable in questions concerning the interpretation of a law, than to inquire how the practice of people was in times by-gone: because what they did when the reason and sense of the law were best perceived, and what the lawgiver allowed them to do in the obedience of it, may best be supposed to be that which he intended. Upon this account, the judged cases in law are the best indication of the meaning of the law; because the sentence of the judges does most solemnly convey the notice of a custom, and allow it reasonable, and by those customs does interpret the law, so that they give aid each to other; the custom gives assistance to the judges in understanding the meaning of the law,—and the judges, giving sentence according to the custom, declare that custom to be reasonable; according to that in the Spanish [i] laws, "That custom is for ever hereafter to be observed, 'si secundum eam bis judicatum fuerit,' 'if there have been two sentences pronounced according to the custom.'" But this use of custom is expressed both in the civil and canon law [k]. "In ambiguitatibus, quæ ex legibus proficiscuntur, consuetudinem aut rerum perpetuo similiter judicatarum auctoritatem vim legis obtinere debere:" "custom and precedents of law are as good as law, in all questions of law and of doubtful interpretation." And therefore the presidents of provinces were commanded [l] to judge by the measure of custom: "Probatis iis, quæ in oppido frequenter in eodem controversiarum genere servata sunt, causa cognita statuat;" "See what is the custom of the place, and, by the measures of that, let the decree pass." And so it is in the canon law [m], where a

[g] Cap. 1. de Constitut. in 6. [h] Lib. ff. de Interpret. ff. de Legibus.
[i] Vide Burgos de Paz. in lib. 1. Tauri, num. 247.
[k] Lib. Nam Imperator. ff. eod. [l] Lib. 1. cap. Quæ sit longa consuet.
[m] Cap. Super eo. de Cognat. Spirit.

a certain bishop is commanded to inquire what is the custom of the metropolitan church, and the churches in the neighbourhood, "et diligentius imitari," "to follow it diligently,"—meaning, both in practice and in sentences. Now in this, if the conscience can be relieved and the rigour of the law abated by the aids of custom, it is safe to use it, and to proceed according to the rules of equity, described in the beginning of this chapter.

4. But all this is therefore reasonable because it is 'consuetudo secundum legem,' 'it is according to law;' all the ease and abatements of which that are reasonable, the conscience may safely use. But if a custom be against a law,—the law, and not the custom, ought to prevail; for a custom cannot take off from us the duty and obedience we owe to the just laws of our superiors. "Consuetudo nec rationem vincit nec legem[n]." As, in divine laws, reason and truth can never be prejudiced by contrary customs; so, in human laws, the authority and obligation cannot be annulled by desuetude alone. For although a man may get impunity and save his skin whole under the protection of contrary custom; yet our inquiry is for the indemnity of conscience: and as to this, it is considerable, that, when a custom contrary to law does enter, it enters by neglect or disobedience, by rebellion or contempt, it proceeds all the way in the paths of iniquity; for still men go 'qua itur, non qua eundum est,' they go, like frighted or wandering sheep, there where the gap is open, not where the way lies: and it will be impossible that such customs should be a warranty to the conscience, and that it should be lawful to break a law, because the law is broken; that disobedience should warrant rebellion[o]; and that it be innocent to follow the multitude to sin. So that, so long as the custom is alone and walks by itself, it walks amiss: but if, by any means, this custom pass into lawful, as a traveller that goes so far westward and still goes on, till at last he comes to the rising of the sun,—then it is not by any force of the custom, but by first obtaining pardon and then procuring leave.

5. For it is observable, that, in law, customs themselves are esteemed illegal and reprobate if they be against law.

[n] Lib. 2. cap. Quæ sit long. Consuet.
[o] Non posse præscribi contra obedientiam. cap. Cum non liceat de Præscript.

"Licet usus consuetudinis non minima sit auctoritas, nunquam tamen veritati aut legi præjudicat;" "Use and custom have great authority, but nothing against truth or law[p]:" and "non valet consuetudo contra canonicam institutionem[q];" for the custom is unreasonable, if it be against law: for "illam dico rationabilem, quam non improbant jura," saith the gloss[r]; and the Lateran council defines those customs to be reasonable, "quæ ratione juvantur et sacris congruunt institutis," "which are assisted by reason and are agreeable to the holy canons." Now because a custom is by no law admitted, unless it be reasonable, and that by all laws those customs are judged unreasonable, which are against law;—we have reason to withdraw ourselves from the practice of such customs, though they be ever so general and long, unless they be, by some other means, allowed.

6. And therefore there is wholly a mistake in this doctrine, upon the account of an ἐναντιοφάνεια and some 'antinomies' in law: for it is certain, that, in the civil law, and in the laws of many nations anciently, the custom of the people was esteemed sufficient to abrogate a law; but it began first, and continued long only in those commonwealths, where the people had power to make a law, or had some pretensions and colours of that power, which were not wholly to be taken from them: and therefore "rectissime[s] receptum est, ut leges non solum suffragio legislatoris, sed etiam tacito consensu omnium per desuetudinem abrogentur;" "laws are abrogated not only by the express revocation of the lawgiver, but by the secret consent of all." And the reason of this is well expressed by Julianus [t] the lawyer: "Quid interest: an suffragio populus voluntatem suam declaret, an rebus ipsis et factis?" "It is all one how the people signify their will, by suffrages or by actions:" meaning, that so long as the legislative power was in them, they had power to revoke their own law by custom as well as by voice, at long running as well as at one convention. But when the people are not their own subjects and their own princes (for so they are in all popular governments), but that the prince or the senate hath the legislative power, they cannot introduce a custom

[p] Cap. Cum Causa de Re Judicata.
[q] Gloss. in cap. ad nostram de Consuet. verb. Canonicis.
[r] In cap. ult. de Consuet. verbo rationabilia.
[s] Lib. de quibus. ff. de Legib. [t] Ibid.

but by rebellion and disobedience. In democracies, when the people did otherwise than their own laws required, they disobeyed themselves, and so were innocent and out of danger; but now they cannot disobey but they sin; and a sin can never of itself lead a man to innocence, nor a lie to truth, unless it be by the help of some other intervening cause, of itself alone it cannot. But this affair relies upon the same ground which I formerly[a] discoursed of in this book; for the mistake of men is alike in both. The obligation of a law does not depend upon the acceptation of the people; and as a law hath not its beginning, so neither can it have its perpetuity; dependantly upon them. And no man thinks it hath, but he who supposes the supreme power to be originally in the people, and in the king by trust; and there are too many that think that; for there have been so many democratical governments that many wise men have said so; because then they had reason: but so many popular governments have also produced popular opinions, which being too much received even by wise men, have still given the people occasion to talk so still, and to very many to believe them.

7. But if a contrary custom could justly abrogate a law; then it were no matter who had the legislative power; for whatever the prince please, the people shall choose whether it be a law or no; which because it is a perfect destruction to all government, must needs proceed from an intolerable principle. To which I add this consideration,—that whatever effect in law and external regiment a custom may be admitted to have, of which I am not concerned to give accounts; —yet if the custom be against law, it is certain the conscience can have no safety, and no peace but in the obedience to the law. For besides that there are so many difficult and indeterminable questions in the conduct of the matter of customs, as whether the custom be reasonable, and who is to judge of that, and by what measures; what are the sufficient causes of custom, whether there must be some inequality of pressure or iniquity in the matter, or is it sufficient that the multitude is willing to introduce a custom against a law? what time and continuance are required to prescribe a custom, and when it begins to be innocent, and how long it is disobedience; how many must concur to the making of it, and

[a] Chap. 1. rule 7.

whether the dissent of a few does interrupt its coalition and growing into a custom, and how shall we know, whether all or no do consent? or how are we sure that a greater part is sufficient, and that we have the greater part with us? whether for the abrogation of the law a mere desuetude or omission is sufficient, or must the custom be contrary to the law and matter of fact? and if that be sufficient to annul an affirmative precept, how many things and circumstances of things will be further required for the removing the obligation of a negative commandment? and very many more to the same purposes, that is, to no purposes: besides this, I say, the conscience can never be warranted in any thing but obedience; because it is impossible to tell the precise time, in which the law is actually abrogated by the custom; and therefore a man can never know by all that is before him in this affair, whether he be worthy of love or hatred.

8. There is only one case that can set this right, and give warranty to the conscience; and that is, when the prince or the supreme power allows the custom and annuls his own law; for he only that made it, can give it a period: and therefore our inquiry can be only this, 'how we shall know, when the prince is willing the law shall go for nothing?' concerning which there are but two ways of our knowing it, or his doing it. The one is by tacit consent or secret approbation of the custom, as, by not punishing, by not complaining, and by silence; and the other is by direct revocation. The former will be very hard to know so well as to be able to bring peace to an inquiring and curious conscience; but I shall give accounts of the best ways of knowing it in the next book, in the explication of this rule, "Qui tacet, consentire videtur:" of the latter I am to speak in the next rule. In the meantime, there is nothing sure for the conscience but to obey the laws; only that we can understand that the custom is then approved, when it passes 'in rem judicatam,' when the king's judges have given sentence in a cause against an old law, for a later custom; which when they have reason to do, the prince's will is sufficiently declared; till then, if we cannot sufficiently know that the prince does secretly approve the custom against the law, we must stay till the law be expressly abrogated; and then the custom may safely be complied with, because then we are sure it is not against law.

For, as Panormitan said well, "Oportet ut duæ partes sint scientes consuetudinis, quæ introducitur." Not only the people, but the prince too, must consent before the custom be approved. For there must be two words to this bargain.

Sect. 7. *Abrogation.*

RULE VII.

Abrogation of a Law by a competent, that is, by the supreme Power, may be just and reasonable, though the Law itself be neither unreasonable or unjust.

1. THE causes of abrogating a law are all those, which are sufficient to make a good and a wise man change his mind. The alteration of the cause of the law, new emergencies, unfit circumstances, public dislike, a greater good: for it is no otherwise in the public than in the private will; there where a man is master of his will and ruler of his own affairs, there is nothing to be considered, but that what he does, be done wisely, and justly, and charitably. The same power that makes the law, the same can annul it; and the same reason which introduced the law, can also change it: and there is no difference but this only,—that a law may not be imposed, unless the matter of it be honest, or holy, or profitable; but it may be abrogated though it be all this, provided it be not necessary. For to the making of a law all the conditions are required, a competent authority, and just matter, and fitting promulgation; but to the abrogation of it, the defect of any one cause is sufficient. And therefore if the law be unjust, it ceases of itself; if it be useless, it falls into just neglect; if it be not published, it is not born; if it be generally disliked, it is supposed to be uncharitable; and therefore is as good as if it were not born, for it will be starved at nurse. But when it is made, it must continue and be maintained by all these things together; and therefore when any one fails, the whole structure descends into dissolution and a heap. But therefore if the will of the prince changes, and that he will not have it to be a law, it loses the spirit, though the body and the external causes of life remain. For though

an action must not be done, unless it be good and innocent; yet it is not necessary that it be done, though it be so. Every thing that is good, is not necessary; and many good things are let alone, and at the same time others as good as they are done, and sometimes better: and because there are many good provisions and counsels which are not taken, and are not made into laws, many such things which are well enough, may be laid aside, either for the procuring a greater good, or for the avoiding of some appendant inconvenience. But in these cases, unless the prince be obliged by oath or promise to preserve this law, his abrogating even of a good law is no question of justice, but of prudence and charity, both which also may be preserved, if the good be changed, or improved, or recompensed. But whether it be right or wrong on the prince's part, yet if the law be annulled, the conscience of the subject is no longer bound. The prince cannot bind the conscience, unless the law be good; but the conscience is at liberty, though the abrogation be not good. Because the goodness of the matter cannot make it into a law without the prince's will, but the prince's will can alone make it cease to be.

2. Upon this account, it is not unseasonable to inquire whether, that a thing hath been abused, may be accounted a just and a prudent cause to take it quite away.

3. That it may be a just, that is, a sufficient cause, is out of all question, because it is not unjust; for then in this case it is just enough, though it be not necessary. But whether it be prudent for the prince to do it, and whether it be necessary that it be done, is another consideration. But to this the precedent of Hezekiah king of Judah is a good guide. For he brake in pieces the brazen serpent, because the people made it an idol; and he did prudently, because the people, who were too apt to that crime, could not easily be kept from doing it so long, as that great memorial of the divine power did remain. It is like removing a beautiful woman from the greedy eyes of a young person; he cannot behold her and be safe: and thus it is in all cases, if the evil be incumbent, and not remediable, nor to be cleansed from mischief or just suspicion and actual danger, then whatsoever is so abused, not only may, but ought to be, removed. But if that which was abused, be now quitted from the abuse, then

it may be kept, if it be good for any thing: and if it were not, I suppose there would be no question about it.

4. But in the change of laws, or reformation of prevailing evil customs, prudence is good always, and zeal sometimes: but certainly the contrary and the exterminating way of a reformation is not always the best, because he that opposes a vice too fiercely, may pass into a contrary vice as readily as into a contrary virtue. If a church happens to command some rituals and forms of worship in a superstitious manner, or to superstitious purposes, or if men do observe them with a curiosity great as to the niceness of superstition, it is not good to oppose them superstitiously. If the obedient do keep the rituals, as if they were the commandments of God, they are to blame: but if the disobedient will reject them, as if they were, of themselves, against God's commandments, —they are more to blame, because a superstitious obedience is better than a superstitious rebellion; *that* hath piety and error in an evil mixture, but *this* hath error and impiety.

5. But as to the subject-matter and inquiry of the rule; that a thing hath been abused, and a law hath been made the occasion of evil, it does not make the law of itself to cease, unless that abuse and deception be not to be cured without abrogation of the law. So that if a subject sees the abuse and is offended at it, and is not tempted to comply with it, he is still tied to observe the law, and, in his own practice, separate it from the abuse. Thus in the primitive church,—the observation of vigils and wakes was a holy custom; and yet it afterward grew into such abuse that the ecclesiastic authority thought fit to abrogate it; because the custom, in the declining piety and corrupted manners of the world, was a ready temptation to the evil. But till the vigils were taken away by authority, the laws of the church did still oblige, and did not cease of themselves: and therefore where, with innocence and without active scandal, they could be observed, the subject was obliged. But then this was cause enough, why the rulers of churches should annul that law or custom. If they could easily have quitted those meetings from corruption, they might, if they pleased, retain them or annul them, as they listed; only they were bound to annul them, when the evil could find no other remedy. The abuse, even so long as it was curable, was yet

cause enough, why the supreme power might abrogate the law, but not sufficient to make the abrogation necessary, nor yet for the subject to disobey it. For the inferior cannot lawfully withdraw his obedience, till the superior cannot lawfully retain the law: but when to abrogate it is necessary, then to disobey it is no sin.

6. I conclude these numerous inquiries and large accounts of the obligation of conscience by human laws, with the apologue taken out of Nicolaus Damascenus's Politics: Ἰβήρων αἱ γυναῖκες ἔχουσι μέτρόν τι τῆς ζώνης, ᾗ τὴν γαστέρα περιλαβεῖν ἂν μὴ δυνηθῶσιν, αἰσχρὸν ἡγοῦνται. "Laws are like the girdles of the Iberian women: if any man's belly or his heart is too big for those circles, he is a dissolute and a dishonoured person."

Non nobis, Domine.

OF THE

NATURE AND CAUSES

OF

GOOD AND EVIL,

THEIR

LIMITS AND CIRCUMSTANCES, THEIR AGGRAVATIONS AND DIMINUTIONS.

BOOK IV.

He that intends to consider any thing fully and entirely, must consider it in all the four kinds of causes. The formal cause or the essentiality of good and evil, is the doing it with or against conscience, true or false, right or wrong, confident or doubtful, probable or certain; and this I have explicated in the first book. The material cause of good and evil is derived from the object or the rule, which is the laws of God and man, by a conformity to which the action is good; and if it disagrees, it is materially evil. And this I have largely represented in the second and third books.

But because it is not enough, that any thing be, in its own nature, honest and just, unless it be also honestly and justly done, according to that saying of the wise man, "Qui sanctitatem sancte custodiunt, judicabuntur, sancti," "They that keep holiness holily, shall be adjudged holy;" to make up the rule of conscience complete, it is necessary that it be considered, by what rules and measures a good action may be rightly conducted, and how all may be rightly judged, that we pass on to emendation, either by repentance or improvement, that a good action may not be spoiled, and an evil may not be allowed, but that, according to the words of the Apostle, we may be εἰς πᾶν ἔργον ἀγαθὸν ἡτοιμασμένοι,

" prepared for every good work :" which will be done by considering the efficient and the final causes of all human actions; the nature and rules of which when we understand and consider, as we have the measure of human actions in all the four kinds of causes, so there will be nothing deficient to the fulness of a general or universal rule of conscience.

CHAP. I.

OF THE EFFICIENT CAUSES OF ALL HUMAN ACTIONS, GOOD AND EVIL.

Sect. 1. *Of Choice and Election, voluntary and involuntary.*

RULE I.

An Action is neither good nor evil, unless it be voluntary, and chosen.

1. THIS rule is taken from the doctrine of St. Austin [a], who makes freedom and election to be of the constitution and definition of sin: " Peccatum est voluntas retinendi vel consequendi quod justitia vetat, et unde liberum est abstinere." The will is the mistress of all our actions, of all but such as are necessary and natural; and therefore to her it is to be imputed whatsoever is done. The action itself is good or bad by its conformity to, or deformity from, the rule of conscience; but the man is good or bad by the will: " nemo nostrum tenetur ad culpam, nisi propria voluntate deflexerit," said St. Ambrose [b]. If the actions be natural and under no command of the will, they are good by creation and the act of God; but if it be a moral action, it is to be conducted by another economy. For in these it is true which the wise man said, " Deus posuit hominem in manu consilii sui :" God, intending to be glorified by our free obedience, hath set before us good and evil: we may put our hand to which we will; only what we choose, that shall be

[a] Habetur 15. qu. in princip. lib. de Duabus animabus, c p. 11.
[b] Ibid. ubi supra cap. non est.

our portion: for all things of this nature he hath left us to ourselves; not to our natural strengths, but to our own choice; he hath instructed us to choose; he hath opened to us not only the nature of things, but the event also of all actions, and invited the will with excellent amabilities and glorious objects; and by all the aids of the Spirit of grace hath enabled it to do its own work well. Just as nature is, by physic, enabled to proceed in her own work of nutriment and increase by a removing of all impediments, so does the Spirit, of God in us, and to us, and for us: and, after all, the will is to choose by its own concreated power.

2. I shall not here enter into the philosophy of this question, but consider it only as it is to be felt and handled. Let the will of man be enabled by what means it please God to choose for it, without God's grace we are sure it cannot do its work; but we are sure also, that we can do our work that God requires of us, and we can let it alone: and therefore as sure as God's grace and help are necessary, so sure it is that we have that help that is necessary; for if we had not, we could not be commanded to work, and there were no need of arguments or of reason, or deliberation or inquiry, according to the words of St. Austin[c]; "Quis non clamet stultum esse præcepta dare ei, cui liberum non est quod præcipitur facere; et iniquum esse eum damnare, cui non fuit potestas jussa complere?" For if, in human actions, that is, actions of morality, there be a fate,—then there is no contingency; and then all deliberation were the greatest folly in the world; because since only one part is possible (that being impossible to come to pass, which God hath inevitably decreed shall never be), the other part is but a chimera, and therefore not subject to consultation. Add to this, if all our actions were predetermined, then one man were not better than another, and there could be no difference of rewards in heaven or earth; God might give what he please, but he shall reward none, not in any sense whatsoever; and Christian princes may as well hang a true man as a thief, because this man no more breaks his law than the other, for neither of them do obey or disobey, but it is fortune that is hanged, and fortune that is advanced:

Ille crucem [sortis] pretium tulit, hic diadema;

[c] Lib. de Fide contra Manichæos, cap. 10.

And there is no such thing as virtue, no praise, and no law. But in all this there is nothing new. For these were long since the discourses of St. Austin against the Manichees, and St. Jerome against the Pelagians: and St. Leo, by these very mediums, confutes the Priscillianists, as appears in his nineteenth epistle to Turibius the bishop. But certainly that is a strange proposition, which affirms that nothing is possible but what is done; and to what purpose is repentance? No man repents that he could not speak as soon as he was born, and no man repents that he was begotten into the world by the ordinary way of all the earth. He that repents, is troubled for doing what he ought not, and what he need not. But I will go on no further in this particular; not because I cannot choose, for I could add very many more things; but because if a man hath not power to will or nill, it is to no purpose to write cases of conscience, or, indeed, to do any thing as wise men should. A fool and a wise man differ not, a lazy man and a diligent, a good man and a bad, save only one hath a better star; they differ as a strong man and a weak: but though one be the better thing, he is not the better man. But I am not here to dispute, yet I shall observe a few things which may be useful to the question, as the question can minister to practice.

3. That whereas all men granting liberty of will in actions of natural life and common intercourse, many of them deny it in moral actions, and many deny it in actions spiritual, they consider not that they evacuate and destroy the very nature and purpose of liberty and choice. For besides that the case of moral actions and spiritual is all one, for that action is moral, which is done in obedience or disobedience to a law; and spiritual is no more, save only it relates to another law, to the evangelical or spiritual law of liberty; but in the nature of the thing it is the same, and can as well be chosen one as the other, when they are equally taught, and alike commanded, and propounded under the same proportionable amability, and till they be so, they are not equally laws;—besides this, the denying liberty in all moral things, that is, in all things of manners, in all things of obedience to the laws of God and man, and the allowing it in things under no law, is a destruction of the very nature and purpose of liberty. For the only end of liberty is to make

us capable of laws, of virtue and reward, and to distinguish us from beasts by a distinct manner of approach to God, and a way of conformity to him proper to us: and except in the matter of divine and human laws, except in the matter of virtue and vice, except in order to reward or punishment, liberty and choice were good for nothing: for to keep ourselves from harm, and poison, and enemies, a natural instinct; and lower appetites, and more brutish faculties, would serve our need as well as the needs of birds and beasts. And therefore to allow it where it is good for nothing, and to deny it where only it can be useful and reasonable and fit to be done, and given by the wise Father of all his creatures, must needs be amiss.

4. Liberty of choice in moral actions, that is, in all that can be good or bad, is agreeable to the whole method and purpose, the economy and design, of human nature and being. For we are a creature between angel and beast, and we understand something, and are ignorant of much, and the things that are before us, are mixed good and evil; and our duty hath much of good and some evil, and sin hath some good and much evil, and therefore these things are, and they are not, to be pursued. 'Omne voluntarium est etiam involuntarium,' and there is a weight on both sides, and our propositions are probable, not true and false, but for several reasons seeming both to several persons. Now if to all this, there were not a faculty, that should, proportionably, and in even measures, and by a symbolical progression, tend to these things,—we could not understand, we could not see, we could not admire, the numbers, and music, and proportions, of the divine wisdom in our creation, in relation to this order of things. For since, in our objects, there is good and evil in confusion or imperfect mixture, if our faculties, tending to these objects, were natural, and not deliberative and elective,—they must take all in, or thrust all out; and either they must receive no good, or admit every evil. It is natural for every thing to love its good, and to avoid its evil; now when the good and evil are simple and unmixed, or not discerned, and instinct and a natural tendency to the object are sufficient to invest it in the possession. But when they are mixed, and we are commanded to choose the good and eschew the evil, if to an indifferent object, there be not an indifferent faculty, what symmetry and proportion is in

this creation? If there be two amabilities propounded, and only one is to be followed, and the other avoided, since the hand hath five, the soul must at least have two, fingers, the one to take, the other to put away. And this is so in all species or kinds of moral actions, even that kind which we call 'spiritual;' for with that also there is mingled so much difficulty and displeasure, that is, so much evil, so much that we naturally and reasonably, desire to avoid, and the avoiding of this evil, does so stand against the choosing of the other good, that a natural and unchoosing faculty, can do nothing at all in the question. But, upon this account, God hath commanded industry, diligence, toleration, patience, longanimity, mortification; that is, he hath set before us, several eligibilities in order to several ends, which must either be wholly to no purpose, or an art of vexation and instrument of torment to evil purpose, or else the means of a reward, and the way of felicity, by the advantage of a free and a wise choice, and this is to a very good purpose.

> Materiamque tuis tristem virtutibus imple:
> Ardua per præceps gloria vadat iter.
> Hectora quis nosset, si felix Troja fuisset?
> Publica virtuti per mala facta via est[d].

It is difficulty and the mixture of several amabilities, that presupposes choice, and makes virtue. But if events and actions were equally predetermined, idleness would be as good as labour, and peevishness as good as patience; but then a man could never come to God. It was well said of Eusebius, Σῶμα ἀργία τήκει, ψυχὴν δὲ ἀμελέτησις· ἀσκήσεως τὴν αὐτὴν ἀειρούσης πρὸς τὸ θεουδέστατον. "As idleness is to the body, so is carelessness and inconsideration to the soul; but exercise, and difficulty, and mortification, bring us unto God:" but these things cannot be understood, but where there is liberty and election, and yet without these, there is no virtue.

> ——— Nam virtus futile nomen,
> Ni decori sat sint pariendo tempora læti[e].

Difficulty makes virtue, and the contrariety of objects makes difficulty, and the various ends and amabilities make the contrariety, and liberty is the hand and fingers of the soul by

[d] Ovid. Trist. lib. 4. El. 3. 73. ed. Harles. p. 187.
[e] Sil. Ital. ix. 376. Ruperti, vol. 2. p. 32.

which she picks and chooses; and if she gathers flowers, she makes herself a garland of immortality.

5. All this state of things, thus represented, must needs signify a state much more perfect than that of beasts, but very imperfect in respect of that of angels, and of that which we ourselves expect hereafter; and therefore that liberty which is made in just proportion, to fit this imperfection, must also, of itself, needs be imperfect, and need not be envied to mankind, as if it were a jewel of the celestial crown. Alas, it is an imperfection, fit to humble us, not to make us proud; it is not too much to be given us, it is a portion of our imperfect condition; it only sets us higher than a tulip, and enlarges our border beyond the folds of sheep or the oxen's stall; but it keeps us in our just station, servants to God, inferior to angels, and in possibility of becoming saints. For in moral and spiritual things, liberty and indetermination are weakness, and suppose a great infirmity of our reason, and a great want of love. For if we understood all the degrees of amability in the service of God, and if we could love God as he deserves,—we could not deliberate concerning his service, and we could not possibly choose or be in love with disobedience, we should have no liberty left, nothing concerning which we could deliberate; for there is no deliberation but when something is to be refused, and something is to be preferred, which could not be, but that we understand good but little, and love it less. For the saints and angels in heaven, and God himself, love good and cannot choose evil, because to do so were imperfection and infelicity; and the devils and accursed souls, hate all good, without liberty and indifferency: but between these is the state of man in the days of his pilgrimage, until he comes to a confirmation in one of the opposite terms. Liberty of will is like the motion of a magnetic needle towards the north, full of trembling and uncertainty, till it be fixed in the beloved point: it wavers as long as it is free, and is at rest when it can choose no more. It is humility and truth to allow to man this liberty; and therefore for this we may lay our faces in the dust, and confess that our dignity and excellence suppose misery and are imperfection, but the instrument and capacity of all duty and all virtue.

6. In the inquiries concerning the efficient cause of

moral actions, men do deny one truth for fear of losing another, and will not allow to man a liberty of choice in spiritual actions and moral effects, for fear of disparaging the grace of God; whereas it is by the grace of God that we have this liberty. "Ipsa ratio quemlibet nostrum quærentem vehementer angustat, ne sic defendamus gratiam, ut liberum arbitrium auferre videamur: rursus nec liberum sic asseramus arbitrium, ut superba impietate ingrati Dei gratiæ judicemur." It is very easy to reconcile[f] God's grace with our liberty, because by this grace it is that we have this liberty. For no man can choose what he does not know, and no man can love that which hath in it no amability. Now because we have all notices spiritual, and the arguments of invitation to obedience in duties evangelical, from revelation and the grace of God, therefore to this we owe the liberty of our will, that is, a power to choose spiritual things. "Grace and truth come by Jesus Christ," and liberty of will comes from him; for "if the Son makes us free, then are we free indeed:" but this is not by giving us new faculties, but new strengths, and new instruments to these faculties we have already. But, let it be this way or any other, we cannot work till we have powers to work; and we cannot choose, till we have liberty; and we cannot be under a law, and promises, and threatenings, if we cannot choose. And therefore it matters not as to our present inquiry, the explication and manner of speaking, of which school of learning we or any man shall please to follow: this only we are to rely upon, that the man cannot be a good man, if he do not choose the good, and decline the evil; and there is no such thing as conscience, and there is no need of it, and no use (except it be merely to torment us), unless it be to guide us into the choice of good, and to deter us from doing evil.

7. But lastly; It will yet be sufficient to the verification of this rule, that whether we affirm or deny the liberty of the will, yet that there be, in every action, good or bad, the action of the will; and if that be not necessary to be admitted

[f] S. Augustinus, lib. 2. de Peccator. Merit. cap. 18. Vide etiam Prosper. lib. 1. de Vocat. Gentium, cap. 8. et ad Capitula Gallorum, sent. 6. et contra Collatorem, cap. 11. et carmen de Ingratis, cap. 26. 28. et ult. Vide etiam et Fulgent. lib. de Incarnat. et Gratiâ Christi, cap. 20. Gregorii, lib. 18. moral. cap. 21. et lib. 33. cap. 25. et V. Bedam in Gen. 4. supra verbis Domini ad Cain. Sed super omnes videatur S. Bernardi liber de Gratia et libero Arbitrio: vide eundem serm. 81. in Cantica.

as the cause of morality, then he that kills a man against his will, is as bad as he that did it with his will; and he that receives the holy sacrament by constraint, does as well as he that chooses it; and to confess Christ against our conscience, is as good as if we confess him according to it: for when the material actions are the same, there is nothing can distinguish the men that do them, but something within that can do this, or let it alone. Now because a good understanding, and a good fancy, and a great reason, and a great resolution, and a strong heart, and a healthful body, may be in a reprobate or vicious person, but a good will and the choice of virtue are only in a good man, it follows that all morality depends on the action of the will; and therefore that all other faculties are natural, and necessary, and obedient,—this only is the empress, and is free, and mistress of the action.

8. And yet beyond this heap of things, there is another reason, why a man can be good or bad only by the act of his will, and not of any other faculty,—because the act or the will produces material and permanent events; it is acquisitive and effective, or recusative and destructive, otherwise than it is in any other faculties. For the other faculties are like the eye and ear,—they can see or hear foul things and be never the worse, and good things and be never the better: but the will of a man is like the hand, and the mouth, and the belly, if they touch foul things, they are defiled,—and if they eat poison, they die; so is the will of man; it becomes all one with its object. For it works only by love or hatred, and therefore changes by the variety of the object it entertains. He that loves a lie, is a liar; but he that only understands it, is never the worse. "Facti sunt abominabiles sicut ea quæ dilexerunt," saith the prophet[g]; "they are made abominable, according as they loved;" "as the things are which they loved;" so the Vulgar Latin:—and so it is in good things, Ὁ κολλώμενος τῷ Κυρίῳ ἓν πνεῦμά ἐστι "He that is joined to the Lord, is one spirit[h]:" love makes the faculty like to the object: and therefore as the object of the will is, whose action is love, so is the man good or bad accordingly.

9. Now this is not so to be understood, as if the actions of other faculties could not be sins; for a sin may be in the memory, in the fancy, in the understanding, in the eye, and

[g] Hosea, ix. 10. [h] 1 Cor. vi. 17.

in the members of the body; but then in these is only the material part of the sin: if the actions subjected in them be involuntary, they are not criminal; they may be irregular, but not sinful; only as the will commands them, and they obey, so they are to stand or fall in judgment. For so ignorance is a sin, when it is voluntary: "Qui dixerunt Deo, Recede à nobis; scientiam viarum tuarum nolumus[i]." The wicked say unto God, "We will not understand thy ways." So the Psalmist[k] complains; "Noluit intelligere ut bene ageret;" "He refused understanding."—Now since, in all the faculties, the will of man hath a dominion, and is the cause of all moral actions, from thence they have their estimate, and are acquitted or condemned accordingly; according to that of St. Bernard, "Nihil ardet in inferno nisi propria voluntas;" "Nothing makes fuel for the flames of hell, but the will of man, and evil actions that are voluntary and chosen."

10. The consequent of this discourse in order to conscience is, that no man lose his peace concerning the controverted articles, and disputes of Christendom. If he inquires after truth earnestly, as after things of great concernment; if he prays to God to assist, and uses those means, which are in his hand and are his best for the finding it; if he be indifferent to any proposition, and loves it not for any consideration, but because he thinks it true; if he will quit any interest rather than lose a truth; if he dares own what he hath found and believed; and if he loves it so much the more, by how much he believes it more conducting to piety and the honour of God;—he hath done what a good and a wise man should do; he needs not regard what any man threatens, nor fear God's anger, when a man of another sect threatens him with damnation; for he that heartily endeavours to please God, and searches what his will is that he may obey it, certainly loves God; and nothing that loves God, can perish.

11. It follows also from hence, that no unavoidable calamity, no being born of evil parents, no being born from illegitimate embraces, no unjust sentences of men, can irreconcile us to God, or prejudice our eternal interest. God will judge us according to our works, not according to his, or

[i] Job, xxi. [k] Psal. xxxv.

any man's else, or by any measures but by his own law and our obedience.

12. Let no man think that either God will, or that the devil can, make us sin. God loves not sin, or that we should die; and therefore will not divide his own kingdom, or set up that by his effective power, which, by his legislative, and his persuasive, and his natural, and eternal, he intends to destroy. And as for the devil, he can tempt indeed; but unless we please, he cannot prevail; it is our consent and willingness, that make him conqueror. And if we be really persuaded of these plain and evident truths, there is a plain way made to encourage our industry, to actuate our caution, to glorify God, to 'work out our salvation with fear and trembling,' to 'walk humbly with our God,' to divest ourselves of all excuses, to lay the burden where it ought; that is, to walk in the right way, in the way of duty, and the paths of the divine commandments, without tempting ourselves, or being fooled and cozened out of our duty, or hindering our repentance and humiliation, if we have done amiss.

13. These are the material events, and that proper usefulness of this proposition, which can do benefit to us in the conduct of conscience. Our own will and choice are all that, upon which we are to make judgment of our actions. For the further declaration of which we are to inquire into divers particulars, in order to the institution and regulating of conscience.

Question I.

'Whether every action of our life ought to be directed by a right conscience, or a well-persuaded will;' or 'are not some actions not only in their whole kind, but in their circumstances and limitations also, merely indifferent.'—

14. To this I answer, that 'actions, if they be considered in their physical or natural capacity, are all negatively indifferent;'—that is, neither good nor bad: the going into a house, the entering into a field, the striking of a blow, the act of generation, eating or drinking, as they are taken in their natural capacity, are not moral actions, that is, by all that they are in nature, are nothing at all in manners; even homicide itself, and adultery, in their natural capacity, differ nothing from justice and the permissions of marriage; and

the giving of alms, is no better naturally than giving money to Mercury, or to an image.

15. 'Omissions of acts are oftentimes indifferent,'—even always when the omission is not of a thing commanded or morally good from some law, or sufficient principle of morality, as perfection, counsel, praise and fame, worthiness and charity. The reason is, because omissions may come in upon a dead stock, and proceed from a negative principle, from sleep and forgetfulness, from a lethargy or dulness, from differing business and divertisements. And that which is nothing, can produce nothing; and neither good nor evil can come from that, which is not; they both must have a positive cause, if they have in them any morality. Even not to commit adultery is not commendable, unless that omission be chosen. And this is very remarkable in order to conscience. For the whole duty of man consists in eschewing evil, and doing good: but to will and to choose good is so necessary, and if we can, to do it is so required of us,—that the very avoiding evil is exacted in that manner, that unless it be a doing good, it is a doing nothing at all, it is good for nothing, it will go for nothing. To eschew evil is a labour, and a mighty work; it is a running from temptation, a shutting the doors against it, a praying against it, it is a flying from it when we can, and a resisting of it when we cannot. A porter cannot be said to eschew ambition, nor does he do well by not commencing of a proud war, when he can think of nothing but how to fill his belly by breaking of his back; and the poor shepherd shall never be thanked for not contending for the archbishoprick of Toledo, or not fighting against his prince, when nothing enters into his armoury but his bottle and his hook,—and nothing into his head, but that his sheep may wander in wholesome and pleasant pastures, and his lambs be free from dogs and foxes. A mere negative does nothing in God's service. The avoiding evil is neither good nor bad, unless it be by a positive act, unless the will be in it: and indeed as things are ordered, it is many times harder to decline evil than to do good; and therefore the eschewing evil is a contention and a war, it is a heap of severe actions, a state of mortification, it is a resisting of temptations. For he that was never tempted, may be innocent; but he is not virtuous, and shall have no reward,—

This is to be understood to be true in all cases; unless his not acting a sin, and his being not tempted now, be the effect of a long prayer, and a former contention; and that either the temptation by his preceding piety be turned aside, or made impotent by mortification, or by his chosen and beloved state of life be made impossible; that is, unless by the arts of the Spirit he hath made it vain, or by his frequent victories, he hath made the devil flee away, and so bought his peace at the price of a mighty war, and his rest at the charge of a pertinacious labour. In all these cases, the omission is negative as to the present state of things; and yet it is virtuous, because it had a positive and a virtuous cause, which now, it may be, lies still, because it hath produced a permanent and perpetual effect.

16. And upon this account we also can hope for the reward even of those graces, which we never exercise. The prince, that refuses the offer of a crown or the possibilities of the empire, because they do not belong to him, shall certainly have a great reward, because, upon the noblest account, he avoids a very great evil. But the poor herdsman that dwells upon his own acre, and feeds the little yokes and couples of sheep on highways and mountains, and looks not ambitiously on his neighbour's farm, nor covets the next cottage, which yet he likes well, and thinks it excellent, because it hath a chimney, nor would do an act of falsehood to get his own tenement rent-free, this man shall have a reward in proportion great as that just prince, who refuses to oppress his brother when his state is broken by rebellion and disadvantages. For there is no virtue but may be loved and courted, delighted in and commended, in every state and circumstance of life: and though it be not exercised in noble temptations and trials proper to the most excellent and remarked persons; yet the very images and little records of trial may express a love and choice, which may be equal to that which is prosperous by the greatest exercise and indication. For there are little envies and ambitions even in cottages, and therefore there may be the choice and volition of humility and peaceful thoughts and acts of charity: and there may be unchastity even in marriage; and therefore though the contention is easier, and the temptations but inconsiderable, yet they also, when they are immured by their

sacramental defensatives and securities, may delight in chastity, and therefore rejoice in that state because it secures them from uncleanness; and therefore for this love, and act of choice, even for delighting in that safety, may find a reward of chastity. And there may be covetousness amongst them that are full of plenty; and therefore even the richest person can be employed in securing the grace of contentedness, though he have but little temptation to the contrary. Indeed, if a beggar were tempted with the offer of twenty thousand pounds, the temptation would be too big for him, if he understood the sum; and possibly if he be a virtuous man, and would not be tempted to tell a lie for twenty shillings, or for one of his own possible and likely sums, yet for so vast a heap of gold bigger than his thoughts, he might beput beyond his virtue. But therefore, God, in his goodness to mankind, does seldom permit such trials and unequal hazards; and to our not being so tempted (without disparagement to our virtue and our choice) we may well confess we owe our innocence. But because God suffers our temptations to be by accidents happening in our own condition, and we are commonly tried by that which is before us, or next above us: every one can either exercise or choose the worthiness of every grace, and may hope for the reward of the whole virtue by resisting the most inconsiderable temptation to its contrary, if in case he have no bigger, he equally chooses the virtue, and rejoices in his innocence. And he that does resist, or by any means expedite himself from his own temptation, shall be rewarded equally to him, to whom the greatest is but his next best. For our virtue is not to be estimated by the instance, but the willingness and the courage, the readiness of mind and alacrity of choice, by the proportion of the man and the methods of his labour, the resolution of the will, and the preparation of the heart; and we must account our omissions or eschewings of evil to be virtuous, by what we have done against it, by our prayer and our watchfulness, our fear and caution, not by an inactive life, and a dull peace, and a negative omission: for he does not eschew evil, that does not do evil, but he that will not do it.

17. 'All acts that pass without any consent of the will, are indifferent;'—that is, they are natural, or unavoidable, or

the productions of fancy, or some other unchoosing faculty, or they are the first motions of a passion, or the emotions of some exterior violence; as the sudden motion of an eye, the head or heart, the hands or feet. Now that these are as indifferent as to grow, or to yawn, or to cough, or to sneeze, appears, because they are of the same nature, and partake equally of the same reason. But these instances can be made to differ. For those which are so natural, that the whole effect also is natural, and cannot pass on to morality or be subject to a command, are always indifferent in their whole kind, and in all their degrees, and in all their circumstances. Thus to grow taller, to digest meat, to wink with the eye in the face of the sun, are not capable of morality. But those things which are at first only natural, and afterward are nursed by the will and discourse,—they are only at first indifferent, because they then only are unavoidable. To look upon a woman is no sin, if she suddenly comes into our presence, though every such look by reason of the man's weakness were a temptation: for at first there was no time to deliberate, and therefore we could not be bound not to look; and if we had not seen her, it had not been good at all, nor evil. But to look upon her so long till we lust after her, to look upon her but to the entertainment of any faculty that ministers to lust, to observe that which is precious in her but so long that the will do consent to that which is, or is likely, to be vile, that corrupts the manners and prevaricates the law.

18. 'No action of the will is indifferent;'—but is either lawful or unlawful, and therefore good or bad. For although there is, in many actions, that, which the school calls 'indifferentiam secundum speciem,' 'an indifference in the kind' of action, or in respect of the object; yet when such actions come under deliberation and to be invested with circumstances, they cannot be considered at all, but that first they must be understood to be lawful or unlawful. For that very objective or specific indifference supposes the action lawful: and he that does a thing, though but with that deliberation and precaution, does do well, unless there be something else also to be considered, and then, it may be, he does better, or, it may be, ill; but when it is come as far as to be chosen and considered, it must be good or bad. For whatsoever that is about which we deliberate, we do it for a rea-

son, that to us cannot seem indifferent; it is for an innocent and a good end, for good to ourselves or others: and nothing can come under the consideration of being an end of human actions, but is directed by the words or by the reason, by the design or the proportion, of some law. For even our profit or our pleasure is to be conducted by the measures of the Spirit: and there is nothing else besides profit and pleasure that is good, or can become the end of an action, excepting only what is honest: and therefore every thing that is good, or can be the reason of an action, is under a law, and consequently cannot be indifferent; according to the doctrine of St. Austin[l]: "Quanquam voluntas, mirum, si potest in medio quodam ita consistere, ut nec bona nec mala sit: aut enim justitiam diligimus, et bona est; et si magis diligimus, magis bona; si minus, minus bona; aut si omnino non diligimus, non bona est. Quis vero dubitet dicere voluntatem, nullo modo justitiam diligentem, non modo esse malam, sed pessimam voluntatem? Ergo voluntas aut bono est aut mala," &c. Whatsoever we do, we do it for a good end or an evil; for if we do it for no end, we do not work like men: and according as the reason is which moves the action, so is the will, either good or bad: for though virtue oftentimes is in the midst between two evils; yet the will of man is never so in the middle as to be between good and evil; for every thing that can move the will is good, or it seems so, and accordingly so is the will.

19. Indeed every action we do, is not in an immediate order to eternal blessing or infelicity; but yet mediately and by consequence, and, in the whole disposition of affairs, adds great moments to it. "Bonum est continentia, malum est luxuria; inter utramque indifferens, ambulare, capitis naribus purgamenta projicere, sputis rheumata jacere. Hoc nec bonum, nec malum: sive enim feceris, sive non, nec justitiam habebis nec injustitiam," said St. Jerome[m]: "Continence is good, and luxury is evil; but between these it is indifferent to walk, to blow the nose, to spit. These things are neither good nor bad,—for whether you do them or do them not, you are by them neither just nor unjust."—For besides that St. Jerome instances in things of a specific and objective indifference, of which I have already spoken, that which he says,

[l] De Peccator. Merit. et Remiss. cap. 18. [m] Epist. 11. ad Augustin.

is true in respect of the supernatural end of man, to which these things (concerning which oftentimes we do not deliberate, at all and even then when we do deliberate they) operate but little. But because the instances are in natural things, where the will hath very little to do, we shall best understand this proposition by the instance of St. Gregory [n]; "Nonnulli diligunt proximos, sed per affectionem cognationis et carnis, quibus in hac dilectione sacra eloquia non contradicunt:" 'Our natural love to our kindred is a thing so indifferent, not in its own nature, but of so little concern to eternity if it be only upon the stock of nature, that all that can be said of it is, that the Scriptures do not forbid it:' that is, whatsoever is natural, is considerable in morality. But because this which first enters by nature, is commanded by God, and can be confirmed and improved by the will, therefore it can become spiritual: but that which is natural is first, and then that which is spiritual: so that although at the first, and when it is only the product of nature, it is but a disposition and a facility towards a spiritual or moral duty; yet as soon as ever the will handles it, it puts on its upper garment of morality, and may come to be invested with a robe of glory. And this was very well discoursed of by the author of the Ὑπογνωστικὰ in St. Austin [o]: "Esse fatemur liberum arbitrium omnibus hominibus, habens quidem judicium rationis, non per quod sit idoneum, quæ ad Deum pertinent, sine Deo aut inchoare, aut certe peragere, sed tantum in operibus vitæ præsentis tam bonis quam etiam malis. Bona dico quæ de bono naturæ oriuntur, id est, velle laborare in agro, velle manducare et bibere;" "In things pertaining to God we cannot begin, or at least we cannot finish, any thing without God and his grace. But in the things of this life we have a free choice, whether the things be good or evil. For those I call good, which do natural good, as to be willing to work in the field, to will, to eat, or to drink."—Now even these things are always good or bad, when they are once chosen by the will, and to these very things the divine grace does give assistance. So the same author: "Velle quicquid bonum ad præsentem pertinet vitam, non sine divino gubernaculo subsistit;" "A man cannot choose well even in things belonging to this life, without the divine as-

[n] Homil. 27. in Evang. [o] Tom. 7. lib. 3.

sistance."—And therefore, in things of great concernment, we pray to God to conduct and direct our choice. And since the order and perfection of every creature is to do actions agreeable to the end and perfection of his nature, it is a pursuance of the end of God and of his own felicity. Although to do so is not virtue in beasts, because they are directed by an external principle, and themselves choose it not; yet, in men, it is virtue, and it is obedience. And although it is natural to do so, and it is unnatural to do otherwise; yet because it is also chosen in many instances, in them it is a virtue or a vice respectively: and though it be not eminent virtue to do so, yet it is a prodigious sin to do otherwise; for sins against nature are, ordinarily and in most instances, the worst; which does demonstrate, that even things of nature and the actions of our prime appetites, when they can be considered, and chosen, never can be indifferent; and for other things which are not of nature, there is lessquestion. Thus to walk, to eat, to drink, to rest,—to take physic for the procuring health, or the ease of our labours, or any end of charity to ourselves or others,—to talk, to tell stories, or any other thing that is good or can minister good to nature or society,—is good, not only naturally, but morally, and may also be spiritually so: for it being a duty to God to preserve ourselves, and against a commandment to destroy ourselves; it being a duty to be affable and courteous in our deportment, to be gentle and kind and charitable; it being charity to make our own lives and the lives of others pleasant, and their condition not only tolerable but eligible; there is no peradventure but every thing of our lives can be good or bad,—because, if it can minister to good or evil ends, it can be chosen for those ends, and therefore must partake of good or evil accordingly. How these ends are to be considered, and with what intention and actual or habitual intuition, I am afterward to consider: for the present it suffices, that, upon this account, the actions themselves are not indifferent.

20. And this doctrine is to great and severe purposes taught by our blessed Saviour[p]; "Of every idle word that a man shall speak, he shall give account in that day." It was a known saying among the Jews, "Cavebit vir ne cum uxore

[p] Matt. xii. 36.

loquatur turpia, quia etiam propter sermonem levem viri cum uxore adducetur ille in judicium," said Rabbi Jonah; "Even the looseness of a man's talk with his wife shall be brought into judgment;"—and Maimonides [q] said, "Pleraque verba sunt otiosa et causam præbent iniquitatis;" "Most words are such which, some way or other, minister to iniquity," and therefore shall certainly pass the fiery trial. Πᾶν ῥῆμα πονηρὸν, so it is in some Greek copies, 'every *wicked* word:' for 'an *idle* word' is not indifferent: it may have in it some degree of wickedness; and therefore may be fit to be forbidden, and consequently shall be judged. "Otiosum verbum est, quod sine utilitate et loquentis dicitur et audientis; si omissis seriis, de rebus frivolis loquamur, et fabulas narremus antiquas. Cæterum qui scurrilia explicat, et cachinnis ora dissolvit, et aliquid profert turpitudinis, hic non otiosi verbi, sed criminosi tenebitur reus," said St. Jerome [r]: "That which neither profits him that speaks nor him that hears, is an idle word; any thing that is not serious, but frivolous and like an old tale. But if it be dissolute or wanton, it is not idle but criminal." St. Chrysostom expounds the words to the same purpose, calling that an 'idle' word, which is spoken without just inducement in some kind or order of good things, that which is mixed with lying or slander. "Omne verbum, quod non conducit ad propositam in domino utilitatem, vanum et otiosum est," said St. Basil [s]; "That word which is not for edification, that is, that which does no good at all, must needs be evil:"—Nay further yet; "Verbum otiosum est quod, etiamsi bonum sit, ad ædificationem fidei tamen non aptatur. Et si ejusmodi verba in celeberrimo illo totius orbis conventu examinabuntur, quid scurrilibus, et detrahentibus, et obscœnis verbis fiet?" "That is an idle word, which although it be good, yet does not tend to the edification of faith; and if such words as these shall be examined in the great assembly of all mankind, what shall be done to detracting, scurrilous and lascivious talking?" I suppose, St. Basil's meaning is, that all propositions which, being built upon the foundation, are not fit for the promotion of it, they are not silver or gold, but a superstructure of wood or hay or stubble: even these and those shall be exa-

[q] In libr. Timoris. [r] In comment. ad hunc locum.
[s] In Regul. Brevior. Resp. ad inter. 23.

mined in the eternal scrutiny; nothing shall escape there; if it will not endure the fire, it shall be consumed. For if the action here have any material end, it shall hereafter have a material reward; if it have no end, yet the man that did it, was sent hither to a better end than to do foolish and useless things. The very doing or speaking that which is good for nothing, is evil, and shall be discerned and judged. We see it even in the judgments of men. Martial[t] tells of a good man, that had got a trick to invite his friends to walk, to bathe, to eat, to drink, with him, and, in all his interviews, he would be perpetually reading of his verses: one would have thought the thing itself were innocent, if the question had been asked concerning the thing alone; but they that felt the folly and tediousness of it, were afraid to see him:

Vir justus, probus, innocens timeris.

And Sidonius[u] tells of some idle persons; "quos execrabilis popularitas agit; civium maximos manu prensant, eque consessu publico abducunt, ac sequestratis oscula impingunt, operam suam spondent, sed non petiti. Utque videantur in negotii communis assertione legari, evectionem refundunt, ipsosque sumptus ultro recusant, et ab ambitu clam rogant singulos, ut ab omnibus palam rogentur," &c. their very civility is troublesome, their idleness is hugely busy, and their employment signifies nothing.

Est ardelionum natio,—occupata in otio,
Gratis anhelans, multa agendo nihil agens,
Sibi molesta et aliis odiosissima [x]:

"They do nothing, and yet never stand still, and are very troublesome to themselves and others." Such an idleness as this, whether in words or deeds, if it can be considered and observed here, shall not escape a stricter consideration hereafter. For none of these things, in the event of affairs, shall prove to be indifferent.

21. The effect of this question is very great; for it engages us upon a strict watchfulness over all our words and actions, and to a wise inquiry when they are done,—and scatters that incuriousness and inadvertency of spirit, which seizes upon most men, while they do actions which they

[t] iii. 44. Mattaire, pag. 56. [u] Epist. 20. lib. 5.
[x] Phædr. ii. 5. Schwabe, vol. 1. p. 463.

consider not whether they be right or wrong: and supposing actions, many more than there are, to be in their whole kind indifferent, would fain make them so in their individual,—and by never disputing the particulars, detain the action in a neutrality as to the conscience, never representing it either as lawful or unlawful, much less as good and evil. But our actions shall be judged by God's measures, not by our wilful and ignorant mistakes. Every thing we do must twice pass through the conscience; once, when it is to be done,—and again, when it is done. And not only whatsoever is not of faith, is sin, so that we sin if we are not persuaded it is lawful;—but it becomes a sin, when we are careless and consider not at all, either actually or habitually, either openly or by involution, as it is alone, or as it is in conjunction with something else, by direct intuition or consequent deduction, by express notices, or by reasonable presumptions, by rule or by fame, by our own reason, or by the reason of others whom we may fairly trust.

Question II.

22. 'Whether is it necessary for the doing of good that we have an express act of volition? or is it not sufficient in some cases that we are not unwilling? Is it not enough that we do not oppose it? but must we also promote it?'—That is, 'Although actions, of themselves, be not indifferent, when they are chosen; may not the will be allowed to be indifferent to some good things, that are laid before her? and what kind or degrees of indifference to good can be lawful, and in what cases?'

23. This is not a question of single actions principally, but of states of life and being, and of single actions only by consequence and involution in the whole: but of great usefulness in the conduct of conscience and making judgments concerning the state of our souls; and it is a great endearment of the actions, the zeal and forwardness of the will and an active piety. First, therefore, in general I answer,—then, more particularly.

24. In the law of Moses, the righteousness commanded was a design for innocence; their great religion was rest; their decalogue was a system especially of negative commandments; the sanction of the law was fear and terror,

which affright all men, but invites none, it makes them afraid, but never willing; their offices were purifications and cleansings away: but so little of good was to be done, that God was more careful that the people should not commit idolatry, than severe in calling them to admire his beauties; that they should learn no evil, than that they should learn much good. Now to this negative state of duty, a will doing nothing, an understanding not considering, a forgetfulness of the question, and a sitting still, might, in many cases, minister; and then the will is accidentally indifferent, when the action never stands before it, either as good or evil. But now, under the gospel, we are unclean, unless we have active purities,—and we are covetous, unless we despise the world,—and we are malicious by interpretation of law, unless we take what opportunities we have of doing good to them that have used us ill; and even to be lukewarm is abominable to God,—and our tongues may sin with silence,—and we are to keep holy-days not by rest, but by religious labour,—and we dishonour the holy name of God not only by cursed swearing, and false oaths, and evil covenants, but if we do not do him honour; if we do not advance his kingdom, we are rebels,—if we do not set his glory forward, we have profaned his 'holy name that is called upon us.'

25. And this is with some mysteriousness intimated in the several senses of those words of Scripture[y]; "Therefore let my name be called upon them." So Jacob's name was called upon Rebecca, and Uriah's name upon Bathsheba; "Rebecca Jacobi, et Uriæ Bathsheba:" and upon Ephraim and Manasseh when Jacob's name was called, the purpose was, that they should be reckoned not as if they had been sons of Joseph, but the sons of Jacob, having an equal portion in the divisions of Israel. So in the Prophet[z]; "Only let thy name be called upon us," that is, let us be reckoned in thy portion, accounted 'to be thy people,—thou, our father,—and we, sons and daughters unto God.' Now in these instances of the Old Testament, it signifies honour and privilege, security of title and advantage of relation, something that, on their part, was passive all the way. But, in the New Testament, we find the same expression rendered to such purposes, as will signify something on our parts also, some

[y] Gen. xlviii. 16. [z] Isa. iv. 1.

emanation of our will and choice, even an active duty. Βλασφημοῦσι τὸ καλὸν ὄνομα τὸ ἐπικληθὲν ἐφ' ὑμᾶς, "They blaspheme that holy name, which is invocated upon you[a]," that is, they blaspheme the name of Jesus Christ, which was put upon them in baptism, by invocation and solemn sacramental prayer. The name of Christ was then put upon us in that manner, which teaches us how to wear it for ever after: it was called upon and so put upon us; it must be called upon, and so worn by us. Here is invocation relative to two terms, both active and passive. And since it is evident and clear in the Scriptures of the New Testament, that 'calling on the name of the Lord' is used for 'being disciples and servants of the Lord,' as appears in those words, "Whosoever shall call on the name of the Lord, shall be saved,"—that is, all that have given up their names to Christ, all that have taken his name and live accordingly;—it follows, that all we, who bear the name of Christians, must not be content with the glorious appellation, or the excellency of the relation, but we must, by our holy lives, by our active obedience, by an 'operative faith, and a busy love, do honour to Christ, and glorify that name, by which we are called and made illustrious.

26. And this is rarely well taught us by a proverbial saying used by our blessed Lord[b], "He that is not with us, is against us; and he that gathereth not, scattereth abroad:" that is, it is not enough, that our will do not choose evil, or oppose itself against God, and his holy laws and sermons. For many unconverted gentiles, children and strangers, the lukewarm and the indifferent, the deaf and the dumb, the stones of the street and the gold of the temple, the starers and the talkers, the sceptic and the careless, these have a negative indifference of will; they do not take part against Christ, but neither do they fight of his side, and therefore are not 'populus voluntarius,' their will and choice are not on Christ's side. But the particulars are these, which determine the cases of conscience which can arise from this inquiry.

27. There are in the gospels[c] two proverbial sayings, each of them twice used: 'He that is not with us, is against us,' and, 'He that is not against us, is with us.' The sayings are

[a] James, ii. 7. [b] Matt. xii. 30. Luke, xi. 23.
[c] Mark, ix. 40. Luke, ix. 50.

of contrary purpose and effect. For as the first enjoins us to the labour of love, and an active will, and an effective zeal, and a religion productive of permanent effects; so the latter seems to be content with negative measures, to approve of an indifferent will, to allow a neutrality; and that not only many single actions, but that a whole state of life, may have a negative indifference and indetermination. Now because both the propositions must needs be true, they must have distinct measures, and proper significations. Therefore,

28. When Christ said, "He that is not against us, is with us," he meant it principally of strangers and aliens, persons not admitted into the strictures of the covenant evangelical. For when the princes of the nations conspire against the Lord's Christ, he that refuses to join with them, declares that he will not be Christ's enemy; and "est quiddam prodire tenus," 'this little is more than nothing.' Thus Gamaliel was on Christ's side, when he gave a gentle counsel in a case of the apostles,—with whom although he did not join, yet because he would not join against them, he was so far with them, that he was not esteemed an enemy: and it was noted of Joseph of Arimathea, that he was 'not consenting' to the sentence of the high-priests in putting our blessed Lord to death; and therefore he was a good man. His not doing that evil was a great indication of a friendly mind.

29. This is also true in questions of religion of difficult understanding, and less necessary knowledge, or not of immediate concernment to salvation. He that does not disbelieve the miracles of Christ, he that does not stop his ears against the voice of Christ, he that does not run after a stranger's voice, "is not far from the kingdom of heaven:" though the man knows little, yet if he believes nothing against any word of Christ, though many words of Christ were delivered of which he knows nothing, he hath put his head into the folds of Christ. For in articles of belief which are not of the foundation, an implicit belief in God and his Christ is sufficient, when there is no vicious positive cause of the not knowing them explicitly: and if this were not true, ignorant and unlettered persons were tied to as great learning and explicit knowledge as the profoundest clerks; which because it is no where commanded, and is very often impossible, and always unreasonable to be exacted, it must follow that it will

in most cases be enough for the idiot or unlearned that they do not oppose what they do not understand, but humbly submit themselves to God and their superiors, by a confident confession of what they understand, and a modest conformity to those other articles, in which public peace is more concerned than public truth, or their private duty. In this case a negative indifference of the will by reason of the ignorance of the understanding, that is, a not opposing what they understand not, and cannot understand, is their security and their innocence.

30. "He that is not against Christ, is with him," is true in the preparations and dispositions to conversion. For he that makes use of a little grace, shall have more; and he that well uses the laws of his country, and keeps the justice of his nation, and observes the principles of reason, and walks according to the light he hath, though he hath not the broad noon-day of the gospel,—yet he is so far on Christ's side, that Christ will join himself to his, and draw him nearer, and advance his nature, and promote his excellent dispositions, and by the methods of the Spirit bring him to God. Upon this stock it was, that God sent St. Peter to Cornelius, and that so many of the Jewish proselytes were converted to Christianity, and so many wise heathens, who had just and ingenuous souls and lived good lives, were brought into the schools of Christ.

31. This is true also in the habits or actions of any one virtue, when it is alone, or when it comes in upon the stock of nature, or education, or passion, or human laws. He that does one good act for Christ, though he do no more, by that one action declares himself to be no enemy, and therefore, he shall not lose his reward: though he give but 'a cup of cold water to a thirsty disciple,' in that capacity of his being a disciple; nay, if it be but in consideration of his being thirsty, if it be but by a natural pity and tenderness, by the emotions of humanity, by the meltings of a worthy disposition and of tender bowels: and therefore much more shall every worthy habit, though it be alone, though entering from a less perfect principle than a spiritual and Christian grace. The chastity of Lucretia, the honesty of Decianus, the truth of Rutilius, the bravery of Scævola, the repentance of Ahab, the humiliation of Manasses, the zeal of Jehu, the compassion

of Titus over Jerusalem, these things, and these persons, are considered by God, and have their portion of reward. And he is not wholly against Christ that does any thing for him: for our blessed Lord is so gracious, that no man shall speak a word for him, or relieve any of his servants, or keep a memorial, but as far as that action goes, according to the proportion of the choice, and the good will, Christ will reckon him to be on his side, and allot him a portion of his blessing, a younger brother's part, though not the inheritance.

32. This is true of those, who, being secretly convinced, cannot yet shake off their prejudices, and their pitiable fears; who own Christ in their hearts, whose faith is weak, and their doubts are strong; who fear God heartily, and yet cannot quite shake off the fear of men; they also are reckoned on Christ's side so far, that they are not present and actual enemies, but actual friends, and but potential professors and disciples. Thus Nicodemus was on Christ's side, by not being against him. He owned as much as he durst; he spake on behalf of Christ, but professed him not; he believed in him, but feared the Jews. This was not enough to adopt him into the kingdom, but this brought him from the enemies' side, like the Kenites and the sons of Rechab in the land of Israel.

33. To be with Christ, hath many parts and degrees of progression and avail. Every man that professes Christ, is with him; he that is baptized,—he that is called Christian,—he that delights in the name,—he that is in the external communion of the church,—is, in some sense, with Christ, because he is not against him. For whoever is a member of the church, whosoever retains his baptismal right, he that hath not renounced Christianity, lost his faith, defied Christ, or turned apostate,—he is still within the covenant of mercy, within the limits of grace, and the power of the Spirit; that is, he hath a right to the privilege and grace of being admitted to repentance, and the consequent grace of pardon: for baptism is for the remission of sins, and as long as that is not renounced, we have a perpetual title to remission of sins, the sacrament as to this purpose being of perpetual effect. Every such person is yet a member of Christ, though barren and unfruitful; his leaf doth not prosper, and his fruit springs not, yet there is a root remaining. For thus

the gospel is compared to a net with fishes, good and bad, to a field of corn and tares. For no man is thrown from grace and mercy, but the open, professed, irreconcilable enemies of Christ, voluntary and malicious apostates; for they are cut off from the root, and have no portion in it, as St. Paul largely discourses in the sixth and tenth chapters to the Hebrews. But those who sin against Christ, and dishonour and grieve the Holy Spirit of Christ, who sin and repent, and yet sin and repent again, being always sorrowful, and always have cause, these men have hopes and time, and helps, and arguments, and probabilities of life, which they could not have, but by being members of Christ's mystical body. They are with Christ in covenant and desire, in title and adoption, because they are not against him in profession and voluntary hostility; but they must go further, or they die.

34. For all this effects nothing else, but that we are tied to treat such persons not as enemies, but as brethren; it exposes such to be chastised and guided by the rod of ecclesiastical discipline, but not to be cut off by the sword of excision and anathema, and sentences of despair: it does manifest the goodness of God, the glorious mercies of our Redeemer, his aptness to pardon, his readiness to receive us, his desires to have us saved, his passion for our felicity, and the presence of his preventing and auxiliary grace. But this was but the proverb of strangers and beginners, of infants and babes in Christ.

35. But when we are entered into the covenant of grace, when we have declared, when the question is concerning final pardon and the hopes of glory, then only the other proverb is true. It is not enough that we are not against Christ, but we must be with him and for him, earnest and zealous, passionate and obedient, diligent and true, illustrious and inquisitive; then it is, 'He that is not with Christ, is against him.' For it is not enough that we are in the root, that is, in preparation and disposition, but we must also bear fruit in the root; for so saith our blessed Saviour[d]; "I am the vine; my Father is the husbandman: every branch in me that beareth not fruit, shall be cut off." First they are in Christ as in the vine, before they can bear fruit; and there he

[d] John, xv. 1, 2.

suffers them to be in expectation of fruit; of which if they fail in their season, they shall be cut off. For the case between Christ and the world is, as it was between Cæsar and Pompey. Pompey had the possession and the right: and therefore, as Cicero in his oration 'pro Ligario[e]' affirms, Pompey's party acknowledged none but his certain and professed friends; "adversarios autem putare nisi qui nobiscum essent," and all to be against them that were not with them; "Te autem," saith he to Cæsar, "qui contra te non essent, tuos." For Cæsar was but entering upon his new fortune; and all that he could get to himself and all that would not assist his enemy, were his purchase or security. So it is with Christ in the beginnings of our conversion; it is a degree of victory to arrest our thoughts, and our not-consentings to the world and its fond affections, is an approach and an accession to Christ. But when our Lord had gotten the first victories, when he hath acquired possession, as well as right, to a soul, and hath a title to rule alone, then the proposition is changed. Christ will not be satisfied with neutrality and an indifferent undetermined will, but he will have our love and active choice, and he will be honoured by all our services; and then the Christian philosophy relies upon these principles: 'He that does not love God, is his enemy:' 'Not to go forward is to go backward;' not to do good, is a doing evil, and lukewarmness is an evil state;—and we must not only not resist the word of truth, but we must contend earnestly for it;—and we must confess with our mouth, what we believe with the heart;—to be a Christian is to hurt no man, and to do good to every man;—and we must not only proceed when we are not hindered, but we must take care that we be not hindered, we must remove every impediment, and pare away that which is useless; for "obstat quicquid non adjuvat[f]," if it does no good, it does hurt: and when the talent is intrusted to us, it must not only not be spent riotously, but it must not be laid up in a napkin: "Pensemus quod lucrum Dei fecimus, nos qui, accepto talento, ad negotium missi sumus[g]." Unless we gain and put something to God's heap, we are unprofitable servants.

[e] Cap. 10. Wetzel. pag. 302.
[f] Quintil. lib. 8. 6. 61. Spalding, tom. 3. p. 346.
[g] S. Greg. hom. 7. in Evang.

36. By the proportion of this truth in the state of our life, we are to account concerning our single actions; not that every single action must be effective of a real, discernible event of piety, but that it be fitted to the general design of a Christian's life; nothing of evil, but ministering to good some way or other, or at least in some good order of things: good for edification, or good in charitable society, or good for example, or useful to some purpose that is fit to be designed, and fit to be chosen.

RULE II.

The virtual and interpretative Consent of the Will is imputed to Good or Evil.

1. THIS rule is intended to explicate the nature of social crimes, in which a man's will is deeper than his hand, though the action of the will is often indirect and collateral, consequent or distant; but if, by any means, it hath a portion into the effect, it is entire in the guilt. And this happens many ways.

2. By ratihabition and confirmation.

"In maleficio ratihabitio mandato comparatur," saith the law[h]: To command another to do violence is imputed to him that commands it more than to him that does it. So Ulpian interpreting the interdict 'Unde tu illum vi dejecisti,' affirms 'eum quoque dejicere qui alteri mandavit vel jussit:' and therefore Ptolemy was guilty of the blood of Pompey, when he sent Photinus to kill him:

Hic factum domino præstitit ——[i].

Now because ratihabition is, by presumption of law, esteemed as a commandment, therefore Ulpian affirms of both alike, "Dejicit et qui mandat, et dejicit qui ratum habet:" "He that commands, and he that consents after it is done, are equally responsible."—Now though the law particularly affirms this only, 'in maleficio,' 'in criminal and injurious actions,'—yet, in the edition of Holoander, that clause is not inserted; and it is also certain that it holds and is true in

[h] Ff. de Reg. Jur. lib. 152. [i] Martial. iii. 66. Mattaire, pag. 62.

contracts and civil affairs. Thus what a servant or a son, employed by his father or his master, shall contract for, is the father's act, if he accounts it valid. If the son borrows money in the father's name, the father is the debtor. But, in matters criminal and civil, there is a real difference as to this particular.

3. For, in matters criminal, ratihabition or approving of the act does always make the approver guilty. The Jews crucified their Lord and King: he that says it was well done, is guilty of that intolerable murder,—and, for an ineffective malice and spite, procures to himself a real and effective damnation. But, in actions criminal, there is this difference to be observed. Some actions are done by the lust and appetite of the criminal agent only, as adultery, rape, fornication; and if this be the state of that affair, that sin is wholly imputed to him that acted it, not to him that approves it. He that approves it, is indeed guilty of the same kind of sin, because he hath applied his will to that which God forbids, —and, for his lustful disposition approved and consented to by his will, commits a sin like it, but is not guilty of that. —But if such approbation become an encouragement to the criminal to do so again, if it fortifies his heart in sin, or hardens his forehead, or makes it pleasant,—he that approved the first, is not only guilty of a sin like the first, but partakes with the criminal really in the guilt of the sins, that follow upon that account.—But there are other sins which are, as the law speaks, 'ratihabentis nomine gesta,' 'which are done in another's name,' and, either partly or wholly, for his interest; and therefore if by him they be approved, the ratihabition is valid to all evil purposes, and is therefore all one as if the actions were by him commanded, for whose interest they were acted, and by whose will they are approved. And thus it is also in the former sins, which serve the lust of him that acts them;—if, besides the serving of his lust, they are designed to serve another's interest; as if Titius steal Sempronia and run away with her, or lie with Mævia the daughter of Amulius to do a spite to the father for the injury he did to Tubero, not only Titius but Tubero is guilty of the crime, if Tubero approves what Titius did for his sake.

4. But now if it be inquired, what real event, as to the conscience, this nice distinction without greater difference

can have, that in one case he that approves the sin is not guilty of the same but another like it, and in the other cases he is partner of the same fault;—I answer, In human laws the difference of effect is very great. For to approve an act of sin done not in my name, introduces no punishment upon the approver; but if it be done in my name and for my interest, by a fiction or presumption of law, it is supposed I gave command or warranty, and therefore I also shall partake of the punishment, unless, by the consideration of other circumstances, I be relieved in equity, and the presumption be found to fail. But in the court of conscience the difference depends not upon presumption; but upon what is in the truth of the thing, which shall be judged well enough by him that knows the secret. For whether the crime was done for me or not, I shall be judged according to that influence, which I would have upon the effect. If I willed it directly, and caused it to be done knowingly, or by some causality which I, at any time, used to that purpose,—I am liable to all the evil, that can be consequent to that sin: but if I be guilty only by ratihabition, that is, if really I did not command it, or effect it, or cause it to be effected, but only rejoice in it and use it when it is done,—then my ratihabition is ordinarily, though very evil, yet much less than the other's action. I say 'ordinarily,' that is, in all cases where craft and machination, plots and contrivances, intermedial violences and deceivings, and other evil things of the retinue of the sin, are previous to the crime. For in all these things, he that only approves the act, hath commonly no interest, or care, or notice, or consideration. If it happens that he considers and approves them too, then the case is altered: but it is not always so. This case will explicate the rule. Ventidius was married to Romanella; but growing rich, and being made a Roman knight, grows weary of his bedfellow, because he hopes now to get a richer wife, if she were gone. While he tumbled this often in his head, it happened that a slave of Ventidius upon some trifling occasion, but in a great passion, flings something at Romanella, which caused her to miscarry, and to die. Ventidius observing his good fortune, secretly puts away his servant that he may escape the hand of justice, and promises him liberty, making what pretences he found convenient to his purpose. He went presently to get him a new

wife, but was arrested in his design, because he was told that 'he that was guilty of his wife's death, was to lose the privilege of a second marriage;' but because he confirmed it and rejoiced in it, it was esteemed in law as a commandment. Upon this he takes advice, and was told, that though, in conscience, he was guilty of murder, because he delighted in it and approved it,—yet mere ratihabition in such things, which must be judged not by the effect but by the previous machination and design, did not produce that punishment of impeding his future marriage. And there is reason for it; because though Ventidius was so base as to wish his wife dead or killed, yet he would not do it himself, nor procure it to be done, his covetousness had not prevailed so far with him; and therefore neither ought the punishment go to the extremity of the law. In divine laws and in the direct obligation of the conscience, there is this great difference. If a crime be done in my name, and I approve it, I am not only guilty before God of the crime, and liable to an equal share of the punishment, according to the foregoing measure,—but I contract a new necessity of duty; I am bound to restore the man, that sinned for my interest, to his former state of justice and integrity as far as I can, by disallowing the act, by discountenancing it, by professing my own repentance, by inviting him to the like: which obligation is not all upon me by a simple and a mere ratihabition of an act in which I have no interest, and to which I had no previous concourse, directly, nor by interpretation. This is the state of this question in relation to matters criminal.

5. But in matters civil, as in contracts, debts, pledges, provisions for pupils, the law is to determine the whole affair, and to account the ratihabition at what rate she please, and upon what conditions; and therefore we are to be determined by our own laws in all such inquiries. That which can be a general measure and relates any way to conscience, is this; where the law does require an express command 'pro forma,' the after-ratification is of no effect in law, nor conscience, if the law impedes the effect. Thus if a minor makes a contract without the consent of his guardian, though afterward the guardian allow it, the contract is invalid: because the law required, in the very form and solemnity of the contract, that the authority of the guardian should be interposed;

and "ea quæ pertinent ad solennitatem contractus, à contractu dividi non possunt," say the lawyers [k]; and "ubi forma actus deficit, corruit actus." If there be an essential effect of what is by law required to the validity of the act, the act is null and invalid, and therefore is also invalid, and effects nothing in conscience, unless where the law of nature intervenes; of which I have already given accounts[l]. Thus also it is in punishments, which are not to be incurred but in cases named in the law, and therefore are not to be imposed in cases of presumption or fiction of law; amongst which is this, of the equivalence of ratihabition [m] to a command. If the son marries a widow within the year of mourning, he is legally infamous; but so is not the father, though he approves it, unless he did consent in the beginning; because these effects, being wholly depending upon positive laws, can have no other measures but what the laws put upon them. But in the court of conscience, the matter is not so easy.

6. But since ratihabition is, at the worst, but an interpretative command, and yet is so very bad as to interpret the guilt of the whole action upon him that so hath influence into the effect by interpretation,—it must needs be, that a direct command is evidently criminal, and in greater degrees; which I needed not to have observed but in order to a further inquiry, and that is:—

Question.

Upon whom doth the greater portion of the guilt lie; upon him that commands a sin, or him that sins in obedience?

Although the question of degrees may be useful to some purposes of conscience, yet it is just to condemn them both with a downright sentence. For so the wise ape in Æsop judged the question between the wolf and the fox, about a piece of flesh, which the fox had stolen from the village, and the wolf had stolen from the fox, who now complained of the wrong. The judicious ape answered,

> Tu non videris perdidisse quod petis:
> Te oredo surripuisse quod pulchre negas [n].

[k] Julianus. 9. sect. Si quis. ff. ad exhib.
[l] Lib. 2. chap. 1. rule 5.
[m] Vide Petrum Peckium ad cap. 10. Ratihabitionem. de Regul. Jur. in 6.
[n] Phæd. i. x. ed. Burm. p. 35.

The fox says 'he hath lost it,' but he lies; and the wolf says 'he hath not stolen it,' and he lies too. They were both in the wrong, and it was hard to say which was the worse. But because although they were equally wicked in their nature and in their manners, yet, in this cause, there might be some difference, and in the partners and confederates in a crime, some have more causality than others, though both of them are in a sad condemnation, therefore,

7. To this I answer, by a distinction known in the civil law of 'mandatum' and 'jussio.' 'Mandatum' is amongst equals, by bidding, encouraging, warranting, and setting on; and in this case, they are both equally guilty, except what difference can be made by the degrees of confidence and earnestness, and by wit and folly, by the advantage and reputation of the man that bids, and the weakness of him that is bidden. But 'Jussio' is from superior to inferior; father to son, master to servant, prince to subjects. In this case, and amongst these persons, the efficiency is unequal, and hath its estimate from the grandeur and sacredness of the authority, and the degree of the fear, which can be the instrument of prevailing and determining. And therefore, when Attilius had spoken gently with Gracchus 'ut patriæ parceret,' seeming to have discovered his design, Gracchus looking terribly upon him, one of his servants, "non expectato signo, ex solo vultu conjectans adesse tempus, ratusque initurum se gratiam apud patronum si primus rem aggrederetur, stricto ferro trajecit Attilium," saith Appian[o]; "stayed neither for command nor sign: but supposing by his forwardness he should please his patron, and guessing by his cruel aspect, it would not be displeasing to him, he kills Attilius upon the place."—Now such an influence as this, from a superior to an inferior, is so little, that the servant is much more to blame than the master. But when Henry II., in a rage, complained that none about him would rid him of that peevish man, meaning Archbishop Becket,—it was more than the frown of Gracchus, but yet not so much as to lessen the fault of the sacrilegious homicides; because there was no violence done to their choice, but the crime entered upon the account of lust and ambition, and that was as bad as if it had begun and ended upon the stock of their own anger or

[o] De Bello Civil. lib. 1.

revenge. But when a prince or a lord commands his subjec to sin, as Domitius, the father of Nero, commanded his freedman to drink to drunkenness, so earnestly that he killed him for refusing it, and as Cambyses did to Praxaspes; then it is evident that the prince is so much more guilty than he that obeys, by how much it is evident that the subject sins with less delight, and a more imperfect choice, and with a will which in its actions suffers diminution: and therefore in such cases, servants are very much excused from punishment in exterior courts, as knowing that such actions proceed from an excusable principle, from a regardful obedience, and an undiscerning subjection; which, because in most things, it ought not to dispute, they not discerning their utmost limit, being born to serve, not to rule and distinguish by their reason, and besides this, having all their fortune bound up in their master's frown or favour, are very much to be pitied if they obey too much;

> Etenim quod, imperante te, servus tuus
> Faciebat, abs te id esse factum existimo[p].

And this the law[q] itself observes in the commands of some superiors: "Qui jussu judicis aliquid facit, non videtur dolo malo facere, cui parere necesse habet;" "The command of such a superior, whom we esteem it necessary to obey, exempts our obedience from being criminal." And though this of judges be a particular case, because 'res judicata pro veritate accipitur,' says the law, 'they declare law by their sentence and commands;'—yet the Romans observed it in the case of clients and freedmen to their patrons, as Livy[r] reports in the case of the freedman of Appius the decemvir; and the old books of philosophers observed it in the obedience of children to their parents, as Aulus Gellius[s] recites out of them.

8. But then this also admits of one distinction more, which the law[t] thus expresses; "Ad ea, quæ non habent atrocitatem sceleris vel facinoris, ignoscitur servis, si vel dominis, vel his qui vice dominorum sunt, velut tutoribus et curatoribus, obtemperaverint;" "Servants and inferiors are

[p] Avien. Fab.

[q] Lib. 167. sect. 1. Qui jussu. lib. 207. ff. de Reg. Jur. et Ulpian. lib. 1. ad legem Juliam et Papiam.

[r] Lib. 3. [s] Lib. 2. cap. 7. [t] Lib. 157. sect. Ad ea quæ.

excused, if they transgress at the command of their superiors in a small matter, but not in a great." This is observed by the sages of our common law. If a 'femme couverte' doth steal goods by the commandment of her husband, without other restraint, this hath been holden to be felony in her, saith Sir Richard Bolton, the lord-chancellor of Ireland: and for this he quotes Bracton, and adds this reason out of him; for "licet uxor obedire debeat viro, in atrocioribus tamen non est ei obediendum;" "in great matters, and sins of high nature, a wife is not to be excused for her obedience." But if the husband not only commands, but uses compulsion, then it is so far excused, that in the wife the theft is not felony; but murder is, because the greatness of the horror in such a fact is sufficient to prevail against the husband's threatenings, and her own fear, unless there were in her some evil principle. If a servant, defending his lord's right, do some injury, he is excused in law, but not if he kills a man; if he speaks a rude word, he may be borne with,—but not if he steals a horse. And this also hath some proportions of truth in the court of conscience[u], that if the superior be great, and the command be urgent, and the instance not very considerable, the fault is, by every of these considerations, very much lessened, but the man is not totally excused; his excuse is upon the stock of fear, or a great temptation: so far as they intervene in the present case, and so far as they can excuse in any (which I am afterward to consider), so far the guilt suffers diminution. But the advice of the Son of Sirach[x] is the great rule in this question; "Accept no person against thy soul, and let not the reverence of any man cause thee to fall."

9. But all this is to be understood of those actions, which are criminal, both in the commandment, and in the obedience, in the sanction, and in the execution; such as adultery, murder, treason, blasphemy, and all the prevarications of the natural law in all moral precepts, the transgression of which can, by no intention, become legitimate. But the positive and temporary laws of God, which enjoin no moral, natural rectitude, but simple and just obedience during the abode of

[u] Lib. 11. is qui in puteum. sect. 6. si tutoris jussu. ff. quod vi aut. clam. lib. 17. sed si unius. sect. si jussu domini. ff. de injuriis.

[x] Eccles. iv. 22.

that law,—the subject, the son, or the servant, if he be commanded by his just superior to an external ministry in the sin of the superior, if he consents not to the sin, and declares against it according as he can be required, sins not at all in the obedience. Thus when Joab and the captains numbered the people against their wills, upon the peremptory command of David[y] their king, they had no part in the sin, because they explicitly dissented all the way, and the execution and obedience did not, implicitly and by interpretation, involve them in it. The reason is, because the act of numbering the people was of itself innocent, and made criminal only by David's circumstances; of which, when they had advertised their king, and disclaimed the malice and irregularity, they interested themselves in nothing but the material part: which when it can be separated from the evil heart, as in this it was, and in all the like it may, the obedience is innocent, though the commandment be impious; and therefore David wholly takes the fault upon himself;

—— mea fraus omnis; nihil iste nec ausus,
Nec potuit ——

"I have sinned and done wickedly, but what have these sheep done?" To this also is to be added, that even, in the case of positive precepts, our obedience must be wholly passive, and, in no sense, active; that is, it must be wholly an act of obedience, without any promoting or advancing the sin in him that commands, no way increasing, or encouraging, or confirming, the sin or the sinner.

9. (2). Under this head is reduced the praising of an action: which if it be done with a design to promote it, is first a si nin the approving it secretly, and is another sin in setting it forward publicly. According to this is that saying of the Arabians; "Qui laudat obscœnum, perpetrat illud;" "He that praises an unclean action, is himself an unclean person." And therefore it was good counsel[z],

Qualem commendes, etiam atque etiam inspice ——

for by our words we shall be judged: but, as Sallust said of Cæsar and Cato, 'Alius alia via,' 'Some, one way and some another,' get great names. Cato was famous for discountenancing Cæsar, for being a patron of, evil men; but Cato

[y] 2 Sam. xxiv. [z] Horat. Ep. 1. 18. 76.

was the better man. And upon this account Pliny commends one, "ornavit virtutes, insectatus est vitia," "he adorned virtues with a fair character, but reproached vicious persons:" and he that by praise and dispraises, respectively, does not distinguish virtue and vice, cannot be a good man.

Ne laudet dignos, laudat Callistratus omnes.
Cui malus est nemo, quis bonus esse potest [a]?

For in vain do laws make a distinction between good and bad, if they be all blended in a common reward. "Male pereas, qui Gratias virgines, meretrices effecisti," said Democritus to one, that gave large gifts to all men alike. Concerning which it was excellently said by Maximus Tyrius [b]; "Qui largiuntur indignis ea, quæ dignis conferenda essent, tria præstant absurda: nam et ipsi jacturam faciunt, in bonos sunt injuriosi, malosque roborant, segete ac materia vitiorum suppeditata:" "To give to vice any of the treatments or rewards of virtue, is a treble mischief: the gift or reward is lost, —and injury is done to virtue,—and evil men are encouraged in their evil courses.

10. By consent, silent and implicit, we are partakers of the fact of others: by not contradicting we are sometimes adjudged willing.

Of the main part of the proposition there is no doubt, but that a consenting to evil is a sin; a consenting to any action gives it as much authority, being, and warranty, as his consent can effect: but the question here is, what are the signs of consent when it is not expressed, and when the man that is silent, is justly presumed willing. This inquiry is of use in the matter of presumptive dispensations, and in the participation of good and evil actions and rewards. But it hath in it but little difficulty.

11. For, 1. It is evident that then silence is an implicit consent, when the superior or the interested person, whose consent can verify the act, and whose power can easily hinder it, and who is bound to hinder it if it be unlawful, does yet hold his peace and forbids it not. The reason of this is, because every man is supposed to do his duty, unless the contrary be known: and therefore when a prince sees his sub-

[a] Martial. xii. 81. Mattaire, p. 256. [b] Serm. 8. de Benef.

jects doing what the law forbids, and which he can easily hinder, it is to be presumed that he dispenses with them in that case, because he knows that they will expound his silence to be a licence; and therefore he also intends it so, so long as he is silent, or else he does unreasonably, and to no good purpose holds his peace.

12. But this is not true in those things, which, to their stabiliment or warranty, require a positive act. For sometimes a silence is but an indifference and neutrality, according to that of the law [c], "Qui tacet non utique fatetur, sed tamen verum est eum non negare;" "He that holds his peace, neither confesses nor denies:" and in the canon [d] law, "Id in tua ecclesia dissimulare poteris, ita quod nec contradicere, nec tuum videaris præstare assensum;" The bishop's dissembling or taking no notice in some cases, is expounded neither to be a contradiction nor consent: and the gloss [e] affirms, "Multa per patientiam tolerantur, quæ si deducta fuerint in judicium, exigente justitia non debent tolerari;" "Some things are patiently suffered, which if they were publicly complained of, ought not to be suffered."—But these seeming antinomies are both very reasonable in their own senses, and therefore are very easy to be reconciled.

13. For if the act, about which the superior is patient, be connived at, it is either because for some reasonable cause he pardons the criminal; or else because his patience is necessary and by constraint. He cannot help himself: for no silence is esteemed a ratihabition of a past act: because when the thing is done without the leave of the superior, his silence or speaking cannot alter it, or legitimate the action if it was evil; at the most, it does but pardon what is past, which is no allowance of any future action of the same nature. Indeed in the court of conscience, such a silence, or not reproving of a past fault, may be want of duty and discipline, and a criminal omission of what we are obliged to; but hath no legal or natural causality upon that action which is past, and can be but an accidental cause or occasion of a future.

14. But then silence is an interpretative consent, when it is, 1. a silence of a thing observed, and 2. at present, and 3.

[c] Lib. 142. ff. de Reg. Jur. [d] Cap. Super eo. de Cognat. Spirituali.
[e] In cap. eam jamdudum de Præben.

that can be hindered: and then indeed, in law, it is a great presumption, but not always in conscience; because it may proceed from a neglect of duty that the superior takes no notice of the action, or from many other causes, as pusillanimity, just fear, or weakness, which, because they cannot always be proved or observed, they may conclude legally from silence to consent or dispensation; yet the process of conscience must be upon more wary grounds, and where there is so much fallibility in the presumption, the conscience must proceed to action upon more certain accounts, and must strictly follow her rule, or must have greater causes to justify her liberty.

15. And therefore though the superior be silent, and does observe the action, and can hinder me; yet I am not to presume that he dispenses, or consents, or gives me leave to go besides the law, unless there be in the state of affairs a just cause of dispensation, and yet a reasonable cause of hindering me from asking, or him from expressing, his leave; then silence may be presumed to be leave, though the cause of dispensation be probable only, and not very necessary.

In the reducing this to practice, three cautions are to be attended.

16. (1.) When a subject proceeds to action upon the presumption of leave, or a tacit dispensation, this presumption or supposition must be made use of before the action be done, not afterward. For it can never be honest to do an act in hope to get leave afterward; for until the leave be actually given or reasonably presumed, it is prohibited, and consequently unlawful; and if a dispensation were afterward given and obtained, it were nothing but a pardon, which is so far from making the past action to be innocent, that it supposes it to be criminal, for else there were no need of pardon. He that sins in hope of pardon, fears nothing of the sin but the smart, he thinks there is no evil but punishment; and therefore hath nothing towards virtue but the fear. If therefore, before the action be undertaken, the dispensation be not presumed,—nothing that comes after, can change the action.

17. (2.) This presumption is not to be extended beyond that very action, that is done in the presence, or within the notice and observation, of the superior. For although it should be true, that he does give tacit consent or leave to

this particular,—yet it follows not, that therefore he does so to any or all of the same kind. For that may be just or tolerable once, which, if repeated, may be changed in circumstances, or become evil example, or of intolerable effect by the very repetition; or the mind of the superior may change, or the causes of dispensation may cease. And after all, since this dispensation wholly depends upon the consent of the superior, and this consent is then only justly presumed, when he observes the action, and forbids it not, the presumption is wholly at an end, when he does not see it; and therefore a tacit consent or leave to an observed action can, at no hand, be extended to a consent or leave to others, that are not observed by him.

18. (3.) If the tacit dispensation be of such nature, that it cannot give leave to a present observed action, but by introducing a faculty, or state, or potentiality of doing the like, then it is certain that if the present action be tacitly dispensed withal or consented to, it may be extended to all of the like kind; but it is also as certain, that such a tacit consent is not so easily to be presumed. The Bishop of Bitonto for his exercise was flinging of a leaden weight, and by chance killed his servant, who unfortunately crossed the way, as the lead was irrecoverably passing from his hand, and, for this misfortune in the chance of blood, is made irregular. Afterward in the presence of his superior seeing a young Turk dying, who had expressed some inclinations to Christianity, baptizes him in the instant before his death, and was observed and connived at by his superior, and therefore had a presumptive leave or dispensation for his irregularity. But because this single action could not have been dispensed, but by taking off his irregularity, it took away all that which could hinder his future doing his episcopal office; and therefore he hath the same presumptive leave for the future actions, which will not be observed, as for the present which was. But then the first presumption must be very reasonable and sure: for although a probable presumption may suffice to conclude for leave in a single present action, whose effects determine with itself; yet if it have influence upon the future (as in the case before cited), it ought to be better considered, and more warily conducted by the superior, and therefore not readily presumed by the subject. These are the measures of guessing

at a consent by silence. There is also one way more of implicit or secret consent, viz.

19. He does implicitly consent to an action, who consentsor commands any thing to be done, from whence such an action or leave must necessarily follow: and the reason is, because he ought not to do things repugnant to each other. He that makes it necessary for me to do a thing, is the cause of my doing it, as much as if he commanded it. And this is more than a tacit consent, or dispensation respectively; for it is a virtual. He that collates the order of priesthood upon me, intends I should do the whole office. "Princeps enim, qui illi dignitatem dedit, omnia gerere decrevit," saith the law[f]. Thus he that dispenses in the irregularity, consents to all the actions, which he does by virtue of the removing that impediment, who is so dispensed with. Which proposition is only so to be understood, when there is nothing wanting to the effecting such an action but the removing that impediment: but it is supposed that he that is dispensed with, will use his liberty; and the dispensation, if it be at all, is directed so, and is in order to it. But if the superior does an action, which is not in order to an end, neither in order of nature or of intention, but yet it can be consequent to it,—that consequent action is not to be imputed to him, who did something precedent, without which that action could not have been done. Thus if a prince pardons a thief, or a friend begs his pardon that killed a man, although he could not have stolen any more without that pardon, yet that after-theft or murder is not imputable to him, that gave, or to him that begged, the pardon,—unless they did it with that very intention; for the pardon is not in any natural order to any such consequent action,—and therefore, without his own or designed conjunction and intuition, cannot convey the crime and guiltiness.

Question.

20. Upon the occasion of this, it is seasonable to inquire 'how far it may be lawful, and can be innocent, to permit a sin[g].'

The case is this. Pancirone, an Italian gentleman, in-

[f] Lib. Quidam. ff. de Re Judic. et lib. Barbarius. ff. de Offic. Prætor.
[g] See book 1. chap. 5. rule 8. numb. 17, 18.

vites a German ambassador to dinner, feasts him nobly, sets before him plenty of delicious wine, enough to exhilarate him and all his company; but the German, after his country fashion, thinks it no entertainment unless he be drunk. The question is, whether Pancirone sins in setting before him so much more as will fill the utmost capacity of his intemperance. Is it lawful to suffer him to be drunk?

21. If this question had been asked in the primitive church, the answer would have been a reproof to the inquirer, as one who no better understood the laws of sobriety and hospitality, and the measures of the Christian feastings. Posidonius tells of St. Austin; "Usus est frugali mensa et sobria, quæ quidem, inter olera et legumina, etiam carnes aliquando propter hospites et quosque inferiores continebat. Semper autem vinum habebat, qnod tamen moderatissime bibebat, quia noverat et docebat, ut apostolus dicit, quod 'omnis creatura Dei bona sit, et nihil abjiciendum quod cum gratiarum actione percipitur:'" "He had that which was good and useful for himself, according to his own measures, and something better for strangers. He always had wine, but it was drank very sparingly; because 'every creature of God is good, if it be received with thanksgiving.'" But if the guests be permitted to drink to drunkenness, who shall say 'Amen' at thy giving of thanks? or how shalt thou give thanks at the spoiling of the gifts of God? There is no peradventure but as a feast is the enlargement of our ordinary diet, so the entertainment of guests is a freer use of our liberty, so it be within the limits and capacities of sobriety. But though the guest's meal may be larger than our ordinary, yet we must secure our own duty more than we can secure theirs. When the Greeks whom Lucullus feasted, wondered why, for their sakes, he should be so large in their expenses, he answered, "Nonnihil, O hospites, vestri causa; sed maxima pars, Luculli gratia;" "Something of this, O guests, is for your sakes, but the most of it is for my own magnificence[h]." We should take care to do so, that though, for our guests, we do something more than ordinary, yet our greatest care should be for ourselves, that we do nothing that may misbecome the house of one of Christ's servants. Would Panci-

[h] Γίνεται μέντοι τούτων καὶ δι' ὑμᾶς, ὦ ἄνδρες Ἕλληνες· τὰ μέντοι πλεῖστα γίνεται διὰ Λούκουλλον. Plutarch, Apoph. Xyl. tom. 1. p. 519. B. (J. R. P.)

rone suffer the German ambassador to lie with his women, when he entertains him, and make his chambers a scene of lust? certainly he would esteem it infinitely dishonest, if to an honest family he should offer so great an injury; and why may not his chambers minister to lust,—as well as his dining-room or cellars, to beastly drunkenness? and is it not as honourable, that the family should be accounted sober, as to be esteemed chaste? or is not drunkenness dishonesty as well as lust? and why may not Pancirone as well bid his servants keep the door to wantonness, and hold the chalice to beastly vomitings? In these things there is no other difference, but that as clothes, so vices, also are in and out of fashion as it happens. He that means to be a servant of God, must, for himself and all his house, take care that God be not there dishonoured. "I and my house will serve the Lord," said Joshua: and when God gave to the Israelites the law of the sabbath, he gave it for themselves and their families and the strangers within their gates. But so corrupt and degenerous are the manners of Christians, that our feasts are ministries of sin, and every guest hath leave to command the house, even when he cannot command himself: but this is not κατ' ἀναλογίαν πίστεως, the Christian sobriety hath other laws. Does any man, when he relieves the poor at his gate, give them leave to drink till they be drunk? and yet what they give to the poor, is given for God's sake: but when they minister to the rich man within, for whose sake is that excess given? If Codrus asks an alms, we refuse him, if we suppose he will make himself drunk with it, and we think we are bound to refuse him: and can it be lawful to give to a guest within, what it is unlawful to give to a guest without? If it be unlawful, it is certain it is not unavoidable: but if there be difficulty in declining it to some men, then, besides that which is principally intended by our blessed Saviour, we see also there is very great reason in those words, "When thou makest a feast, call not the rich, but call the poor:" these will not tempt you to make them drunk; it may be, the others will. If our guest makes himself drunk with the usual provisions which must be indistinctly ministered at feasts, that cannot be helped, but by refusing to receive such persons again to our table: but he that knowingly and observingly espies the meeting turn to God's dishonour, and does not put

a limit to that sea of drink, and place a shore and a strand to the inundation, will find that God is departed from that meeting, and the pleasing of his drunken guests will not make him recompense for the loss of such an inhabitant. A man must, at no hand, consent to his brother's sin: and he that can, and ought to, hinder it, and does not,—by interpretation, does consent. For he that gives a man a goblet of intemperance, with which he sees him about to drown his soul, is just as innocent as he, that lends him a knife to cut his own throat. But this is to be understood when the case is evident and notorious; for in the approaches and accesses to drunkenness the matter is less than in the lending of a knife, because it is yet disputable, whether he will finish his intemperance: but if it be plain that drunkenness is designed, the case is all one; and if it be not perfectly designed, yet as it steals on discernibly, so the sin of him that ministers to the crime, increases up to the same proportion of effect and guiltiness. Hospitality is one of the kinds of charity: and that is but an ill welcome, which first procures a fever, and, it may be, after it an irrevocable damnation.

22. And he that gives council or aid to an action good or evil, consents to it, and it is imputed to him as a product of his will and choice.

This is expressly affirmed by all laws[1] civil and canon, and the municipal laws of all those nations, of which I have seen any records concerning this matter: and the interpreters universally consent, with this proviso,—that the counsel be so much cause of the action, that without it it would not have been done. For if the action would have been done however, then he that counsels to it, is guilty in conscience always; but unless it be in great crimes, and 'in detestationem facti,' it is not always punished in law. But if it were, it would be very just, so that a difference were made in the degree of punishment: for he whose counsel is wholly author of the fact, is guilty of more evil than he, who only adds hardness to him, who has resolved upon the crime. But, in the court of conscience, he stands guilty that gives evil counsel, whether the criminal would have done it with or without his

[1] Cap. si quis viduam. 50. distinct. cap. 2. de Cler. pug. in Duello. cap. Sicut Dignum. sect. Clericos. de Homicid.

counsel : and therefore the laws do very well also to punish evil counsellors.

> Quam bene dispositum terris, ut dignus iniqui
> Fructus consilii primis autoribus instet.
> Sic multos fluvio, vates, arente per annos,
> Hospite qui cæso monuit placare Tonantem,
> Inventas primus Busiridis imbuit aras,
> Et cecidit sævi, quod dixerat, hostia sacri :

So Claudian[k]. The evil counsellor is first to feel the evil effect of his own pernicious counsel; that is, if his counsel persuade to sin, not if it prove unfortunate: not but that even counsel, that is given with purpose to do a mischief, is highly to be punished, not only by the degree of the evil effect, but by the degree of the malice that advised it; but that those events, which were not foreseen or designed, cannot be imputed to him that gave the best advice he could, but could not help it if he were deceived in his judgment. But if the counsel be to a sin or an unworthy action, there is no need to expect the event to make a judgment of the counsel.

23. The same is also affirmed in the case of giving aids to an action good or bad; in which there is no variety, but of degrees only: for when they are σύν τε δύ' ἐρχόμενοι in combination, it is mischief with a witness.

> Non caret effectu, quod volucre duo.

It is an aggravation of the impiety, when the zeal of malice is so potent, that it is greater than the power, and therefore calls in aid to secure the mischief. But he that so assists, that he is the great effective cause of the evil, which, without his aid, would not have been done at all,—is entirely guilty.

> Sic opifex tauri, tormentorumque reperter,
> Qui funesta novo fabricaverat ære dolori,
> Primus inexpertum, Siculo cogente tyranno,
> Sensit opus, docuitque suum mugire juvencum[l].

'Perillus invented and made witty instruments of cruelty, to invite Phalaris to a witty mischief; but the tyrant was just that once, and made him teach his own brazen bull to roar.' But if the aid do but facilitate the work, the assistant is punishable according to the efficacy of his aid, in human laws;

[k] Claudian. lib. 1. in Eutrop. 157. Gesner, vol. 1. pag. 238. [l] Claud. ibid.

but in conscience he is guilty, according to the secret malice of the principle: and therefore when Lucius Carpentus killed Nicanor, his page that hated Nicanor mortally, and did nothing but thrust his master's sword further into his heart, to show his ill-will, though Carpentus had sufficiently killed him, was as much a murderer as his master was. In human laws, there is a great difference in these things.

1. For if many, by joined counsel, set upon a man and kill him together, though one only gave him a deadly wound, yet all are guilty of the murder, because they all intended it, and did something towards it.

2. But if in heat of blood, and by the surprise of passion, this be done, he only that gave the deadly wound, is the homicide, and the rest are injurious, and are punished accordingly.

3. If one give the deadly wound, and the other knock him on the head and so speed him, they are both murderers alike.

4. If many strike a man, and of all these wounds together he dies, they are equally guilty; for the law justly presumes, that their malice is equal, by their conjunct attempt; and there being nothing in the event to distinguish them, the presumption is reasonable, and ought to pass into effect.

5. If the man be dead but with one wound, and it be not known which of the assistants did it, they are all alike accounted homicides; for every of them is justly supposed to have had malice enough to have done it, and which of them had the hap to do it, is not known; therefore there can be nothing to distinguish them in the punishment, because the guilt is alike, and the event not discernibly any one's peculiar. But although in external judicatories the proceedings are various, and considering there is no other way of judging what is secret and undistinguishable, this way is necessary and unavoidable of proceeding by the most reasonable and probable methods of justice; yet in the court of conscience there is a more certain proceeding, and the answer is regular, and one; according to the degree of the will and choice, and the tendency of our affections to the event, so we shall be judged: and therefore concerning this, our own conscience is the only measure of our expectations; and the will is the measure of reward. But these things only two can know,

the Spirit of God, and the spirit of a man; and that is enough to finish the process at the day of judgment.

Question.

24. Whether, or no, is the making and providing the instruments, which usually minister to sin, by interpretation such an aid to the sin, as to involve our will and consent to the sin, and make us partakers of the guilt?

To this I answer, first in general, that all those arts and trades of life, which minister only to vanity and trifling pleasures, are of ill fame, such as are jugglers, tumblers, players, fencers, and the like; it being an injunction of the Apostle[m], that every Christian should labour with his hands, *τὸ ἀγαθὸν*, 'that which is good,' that is, something profitable to the commonwealth, and acceptable to God: and to the same purpose is it, that all that a Christian does, must be apt to be reckoned amongst one of these heads, *τὰ ἀληθῆ, τὰ σεμνὰ, τὰ δίκαια, τὰ ἁγνὰ, τὰ προσφιλῆ, εὔφημα* "either the true or the honest, the just or the pure, the lovely or of good report[n];" and it will be hard to reduce some of those trades to any of these heads. But I cannot see reason enough to say, that if any man sins by the using of these arts, and their productions, that the artist is partaker of the crime; because he, designing only to maintain himself, and to please the eyes and ears and youthful passions of others, may possibly not communicate in their sin, who overact their liberty and their vanity. But because such persons are not so wise or discerning as to be able to discern so nicely one formality from another, but desire upon any terms to get as much money as they can, and that if they were so wise as to be able to discern the measures of their duty, they would employ themselves better, therefore in the whole, such persons are to be reproved, though the arts themselves might otherwise be tolerated. They are not unlawful, because they are directly evil; but because they do but little or no good, such as are jesters, and buffoons, and jugglers; at the best they are but *ματαιοτεχνίαι*, vain arts, and if they be not directly punishable, they can have no reward at all. But Alexander did very well to a fellow, who made it his trade and livelihood to stand at distance and throw little peas in at the eye of a needle, made

[m] Ephes. iv. 28. [n] Philip. iv. 8.

on purpose just so big as would receive them:—the fellow, seeing the prince admire his dexterous aim, expected a great reward; and the prince, observing the fellow's expectation, rewarded him with a whole bushel of peas. It was a reward worthy of such an employment. A man cannot be blamed for having such an art, but he that makes that to be his trade, cannot be otherwise than an idle person: and therefore although he may be tolerated in the commonwealth, where there live many persons more idle and useless than himself,—and although, if other things were well, the man could not be directly condemned for this, and said to be in a state of damnation; yet because if other things were well, he would quickly employ himself better,—therefore such persons, when they come near a spiritual guide, are to be called off from that, which, at the best, is good for nothing, and stands too near a sin to be endured in the scrutinies after life eternal.

25. But some inquire, whether the trade of cardmakers and dicemakers be lawful: and the reason of their doubt is, because these things are used by the worst of men, and to very vile purposes; to which these arts do minister, and therefore are reasonably suspected as guilty of a participation of the consequent crimes.

26. To which I answer, that some things minister to sin immediately, others mediately only, and by the intervention of something else; some minister to sin inevitably and by their design and institution; others, by the fault of them that use them ill; and lastly, some things minister to evil and to no good; others, to good and evil promiscuously. These three distinctions make but one difference of things, but give several reasons of that difference. Those things,—which minister to sin immediately, by their very nature and design, and therefore minister to no good, unless it be accidentally and by the virtue of something else, nothing appertaining to them,—are certainly unlawful; and of this there is no question, and that for all those reasons contained in their description, they are of evil,—and they are evil,—and they tend to evil. But if they can minister to good, if they of themselves are innocent, if they can be used without doing hurt, although they are generally abused, yet he that makes them in order only to such uses, to which, of themselves, they

can and ought to minister,—partakes not of the sin of them, that abuse the productions of his art and labour. And this is remarkable in the case of pictures and images: concerning the making of which there was a great question in the primitive church; but the case of conscience they thus determined, It was unlawful to make pictures or images for heathen temples, or for any use of religion: "Imo tu colis, qui facis ut coli possint;" 'He that makes them that they may be worshipped, is a worshipper of them;' that is, he partakes of his sin that he does worship. But because the art statuary and of painting might be used to better purposes, therefore they were advised to do so, but to separate them from all approaches towards religion; of which I have already [o] given accounts out of Tertullian [p]. And the same is the answer concerning the trades of making cards and dice. But although this be but an instance of this rule; yet because it relates to the practice of so great a part of mankind, it may deserve to be considered alone in order to that relation and that practice. For it wholly depends upon this,—If it be innocent, if it can be good to play at cards and dice, then the trade of making the instruments of playing is also innocent. If not, that which ministers to nothing but sin, must be of the kindred of sin, and in the same condemnation.

Question.

Whether it be lawful to play at cards or dice?

27. St. Chrysostom [q] affirms, "Non Deum invenisse ludum, sed diabolum;" "Not God, but the devil [r], found out play."—It may be, he alluded to that of Plato [s], who says

[o] See lib. 2. chap. 2. rule 6. numb. 31.

[p] De Spectaculis, c. 23. [q] Homil. 6. in Matt.

[r] Quem 'Deum hujus mundi' vocat apostolus: quem Deum scil. hujusmodi ludorum auctorem indigitat Hieronymus Cremonensis, poeta non incelebris.

Mox verò gratum ludum mortalibus ipse
Ostendit Deus, et morem certaminis hujus.
Namque olim, ut perhibent, dilectam Scaochida, quâ non
Inter Seriadas præstantior altera Nymphas,
Compressit ripâ errantem, et nil tale putantem,
Dum pascit niveos herbosa ad flumina olores.
Tum bicolorem buxum dedit, atque, pudoris
Amissi pretium, vario ordine picturatam
Argentique aurique gravem tabulam addit, usumque
Edocuit; Nymphæque etiam nunc servat honorem
Et nomen ludus, celebrat quem maxima Roma,
Extremæque hominum diversa ad littora gentes.

[s] Phædro.

that the spirit Theuth invented tables and dice; but then he says that the same spirit found out arithmetic, geometry, and astronomy; and therefore from hence we can make no conjecture. St. Cyprian[t] says, that "quidam, studio literarum bene eruditus, multum meditando malum et perniciosum studium adinvenit, instinctu solius Zabuli, qui eum artibus suis repleverat. Hanc ergo artem ostendit, quam et colendam sculpturis cum sua imagine fabricavit;" "some very learned persons, inspired and filled with the arts of the spirit Zabulus, taught the art of dice and tables:" and he adds, "that he so ordered it, that no man might touch the tables, till he had first sacrificed to Zabulus." And therefore M. Mantua affirmed it to be very unlawful to play at dice or tables, upon this very reason; "Non tantum aleæ lusum crimen esse, sed malorum dæmonum inventum;" "It must needs be unlawful when it is more than so, as being the very invention of the devil."—And this fierce declamation hath prevailed amongst many wise men to the condemnation of it. Vincentius[u] says, "Manus diaboli est ludus taxillorum:" and Bodinus[x] is yet more particular, he tells us how; for, says he, "In alea et fortuito illius jactu geomantiam artemque diabolicam sitam esse;" "The chance and luck of it is a kind of geomancy or diabolical art." Indeed if he had meant that the art of conducting the fall of the contingent die had been diabolical and a juggling art, he had spoken reason and truth: but that there is a diabolical art in the contingency and chance of it, is little better than a contradiction; unless he could make it appear that the fall of the dice was, by God, committed to the devil's conduct: which truly is not very probable in some cases to be admitted; but because it is uncertain, Apherdianus calls it diabolical, or found out by the devil, by reason of the craft used in it, and the evils consequent to it:

Dæmonis instinctu sibi quod reperere maligni,
Cum variis homines in sua damna dolis.

And indeed this is almost the whole state of the question; for there are so many evils in the use of these sports,—they are made trades of fraud and livelihood,—they are accompanied so with drinking and swearing,—they are so scandalous

[t] De Aleatoribus. [u] Serm. de S. Matthia. [x] Lib. 1. de Dæmonol.

by blasphemies and quarrels,—so infamous by the mispending our precious time,—and the ruin of many families,—they so often make wise men fools and slaves of passion;—that we may say of them that use these inordinately,

Κακῶν πέλαγος εἰσορῶ
Τοσοῦτον, ὥστε μήποτ' ἐκνεῦσαι πάλιν[y],

'they are in an ocean of mischiefs, and can hardly swim to shore without perishing.' And therefore it is no wonder, that holy men and wise commonwealths, observing the great evil of them, and having not skill or experience enough to tell of any good that is in them, have forbid them utterly. This is the observation of St. Isidore[z]; "Ab hac arte autem fraus et mendacium atque perjurium nunquam abest, postremo et odium et damna rerum: unde et aliquando, propter hæc scelera, interdicta legibus fuit;" "Fraud and lying and perjury are the inseparable attendants upon cards and dice, and hatred and great losses follow; and therefore because of this appendant wickedness, sometimes these are wholly forbidden by the laws."

28. For so we find it forbidden in the civil laws of princes and republics. M. Mantua[a] tells, that, by an old law of Egypt, every man was easily admitted to the accusation of a gamester or dice-player; and if he were convicted of it, he was condemned to the quarries: and Josephus Mascardus[b] tells, that those who were remarked as daily and common gamesters, were infamous, and not admitted to give testimony in a cause of law. It is certain it was forbidden by the laws;

Seu mavis vetita legibus alea[c].

The lex Roscia punished those persons with banishment, who lost any considerable portions of their estates by playing at dice; and sometimes the laws did condemn them that lost money, to pay four times so much to the fiscus, as Asconius Pædianus tells in his observations upon Cicero's second book 'de Divinatione.' Justinian the emperor[d] made an express law against it, forbidding it both in public and private

[y] Eurip. Hippolyt. 824. ed. Monk. p. 103.
[z] Lib. 1. Origin. cap. 67.
[a] Polymath. lib. 8. cap. 3.
[b] De Prob. vol. 2. conc. 13. 6.
[c] Horat. Od. iii. 24. 58.
[d] Lib. 3. cod. Justin. tit. 43. et in Authentic. tit. de Sacrosanctis Episcopis. sect. Interdicimus.

houses. Magnus Sforza forbade dice and tables to be used in his camp: Phillippus Adeodatus severely prohibited it in the commonwealth; so did Charles VII. of France: for in the perpetual and daily abuse of such sports the commonwealth hath much incommodity, and consequently many interests in the prohibition.

> Ludus enim genuit trepidum certamen et iram;
> Ira truces inimicitias et funebre bellum[e].

The public peace cannot be kept, where public dicing-houses are permitted: and therefore the Romans were so severe against such public houses and scenes of debauchery, that the prætor[f] said, "Si quis eum, apud quem alea lusum esse dicetur, verberaverit, damnumve ei dederit, sive quid eo tempore domo ejus subtractum erit, judicium non dabo;" "If the gentlemen beat the master of such gaming-houses, or stole any thing from his house at that time, he should have no remedy." For these were houses of public hatred, and therefore outlawed.—And therefore Seneca[g] calls them "loca ædilem metuentia," "houses afraid of the magistrate:" "Virtutem in templo invenies, in foro, in curia, pro muris stantem, pulverulentam, coloratam, callosas habentem manus: Voluptatem latitantem sæpius, ac tenebras captantem, circa balnea ac sudatoria, ac loca ædilem metuentia;" "You may find Virtue standing in courts, and temples, and upon the walls of a city, dusty and discoloured, and with brawny hands; but Pleasure sneaks up and down to baths, and sweating-houses, and places that fear the presence of the ædile;" —that is, gaming-houses;—which we learn from Martial[h];

> Arcana modo raptus è popina
> Ædilem rogat udus aleator;

"The dice-player, half drunk, newly snatched from his tavern or ordinary, beseeches the ædile for mercy." But in the civil law the punishments of the gamesters, and especially the keepers of the gaming-houses, by the confiscation of the house, nay, the destruction of it, that no man may dwell in it for ever, in that place where God hath been so many times dishonoured and blasphemed, are sufficient indication

[e] Horat. ep. 1. 19. 48.
[f] Ff. lib. 11. tit. 5. de Aleator. Vide etiam Wesenbech. ibid.
[g] De Vita Beata, cap. 7. Ruhkopf, vol. 1. p. 519.
[h] V. 85. 3. Mattaire, p. 106.

of that just detestation in which the laws had them: and who please may see them largely described in Daneus[i] and Jodocus Damhouderius[k]. But I observe, that the especial remarks that the civil laws of princes and republics put upon this kind of gaming, is, that it causes many quarrels;

—— dum vitreo peraguntur militis bella:

the contention for the victory begets a more cruel war: but this is especially upon the account of money which is then lost, and which the laws most regard, as the cause of all the mischief.

29. But when this question and these observations fell into the hands of the church, that is, of Christian and pious princes and prelates, and they that were and ought to be zealous for souls, had observed, that God was exceedingly dishonoured,—that his name was infinitely blasphemed,—that much of that precious time which God had allowed to us for the working out our salvation with fear and trembling, was spent in luxury, and swearing, and passion, and lying, and cursing, and covetousness, and fraud, and quarrels, and intemperance of all sorts,—and that μέθαι and κῶβοι, "drinking and gaming" are joined so frequently that they are knit in a proverb, and that these together baffle the spirit of a man, and drive away the Spirit of God,

Aleaque, et multo tempora quassa mero,
Eripiunt omnes animo sine vulnere nervos[l],

"they disarm and weaken the mind of a man without a wound;" it is, I say, no wonder that they forbade it so fiercely, and censured it so severely.—"Aleator quicunque es, Christianum te dicis, quod non es," said St. Cyprian[m]; "A common gamester or dice-player may call himself Christian, but indeed he is not:"—and St. Clemens Alexandrinus says, "Inconsideratum luxuriæ amorem otiosis isthæc aleæ oblectamina suppeditare, desidiamque in causa esse;" "Idleness and wantonness provide these games for the lazy and useless people of the world." And therefore St. Bernard[n] said, that "the pious and Christian soldiers that inhabit Jerusalem, 'aleas detestantur, mimos, et magos, et fabulatores, scurri-

[i] De Alea. [k] Prax. p. 507. cap. 126. et alibi.
[l] Ovid. de Remed. Am. 146. Maltaire, vol. 2. p. 245.
[m] Lib. de Aleatoribus. [n] De Christian. Milite.

lesque cantilenas, tanquam vanitates aut insanias respuunt et abominantur;' 'I hate dice, and abominate jesters, and jugglers, and players, and idle songs, like vanities and madness.'"—Upon these or the like accounts, the fathers of the council of Eliberis [o] separated these gamesters from the communion: "Si quis fidelis alea, id est, tabula luserit, placuit eum abstinere. Et si emendatus cessaverit, post annum poterit reconciliari;" "A Christian, playing at dice or tables, is not to be admitted to the holy communion, but after a year's penance and abstention, and his total amendment:" and the canon law [p] forbids a clergyman either to play at tables, or to be present at those places where they do. But the capitular [q] of Charles the Great joins dicing and drunkenness together, as being usual companions, and forbids them both alike to bishops, priests, and deacons. And indeed when the case is thus, I say as Schonæus said in the case of Saul, "Quæ potest esse in tanti sceleris immanitate coercenda crudelitas?" No laws are too severe, no sentence is too rigid, for its sentence and condemnation [r].

30. But if the case can be otherwise, if playing at dice and tables can become an innocent recreation,—then all these terrible and true sentences will not reach them that so use it. And indeed, even amongst those places and republics, where such gaming was so highly condemned and severely punished, some of their braver men did use it, but without the vile appendages, and therefore without scandal and reproach. For first in general, it cannot misbecome a wise and a good man to bend his bow, and to relax the severities, the strictures, and more earnest tendencies, of his mind.

> Quin ubi se à vulgo et scena in secreta remôrant
> Virtus Scipiadæ et mitis sapientia Læli,
> Nugari cum illo, et discincti ludere, donec
> Decoqueretur olus, soliti :—— [s]

"Lælius and Scipio would play till they had digested their meal."—And of Archias of Tarentum it was said, Κεῖνος ἐν πασὶ νέος, ἐν δὲ βουλαῖς πρέσβυς, "He was an old and a wise man in public counsels and employments, but he would play like a young man." And concerning very many wise princes

[o] Can. 79. Vide etiam can. 41, 42. Apostol.
[p] De Vita et Honestate Clericor, cap. Cleric. [q] Lib. 6. cap. 200.
[r] Vide etiam Decretum, dist. 35. cap. 8. Episcop. et de Excessu Prælatorum cap. inter dilectos. [s] Horat. S. ii. 1. 71. Gesner.

and philosophers, you will find many stories of their confident using lighter but innocent sports for the refreshment of their spirits tired with study and labour, collected by Alexander ab Alexandro[t]. But in particular concerning dice and tables we find in Valerius Maximus[u] related of Q. Mucius; "aleæ quoque et calculis vacasse interdum dicitur, cum bene ac diu jura civium ac ceremonias deorum ordinasset: ut enim in rebus seriis Scævolam, ita et in scenicis [vel ludicris] lusibus hominem agebat:" that "sometimes he would play at dice and tables, when he had first dispatched the business of the commonwealth prosperously, and the affairs of religion wisely: in serious things doing as Scævola should,—in his recreations, doing as a man:" "qua quidem alea Porcius Cato lusisse fertur animi laxandi causa," "and Porcius Cato himself, wise and severe though he was, yet played at tables to refresh and relax his mind." And if cards or tables have in their own nature nothing that is evil, provided it can be also separated from all the evil appendages, from the crimes and from the reproach, from the danger and from the scandal, that which only remains is, that they, as well as other innocent recreations and divertisements, may be used. In the case so stated we suppose them only to be recreations and relaxations of the mind: Ἐγὼ γὰρ φῄμην τὴν παιδιὰν ἄνεσίν τε εἶναι τῆς ψυχῆς, καὶ ἀνάπαυσιν τῶν φροντίδων, said Julian[x]: 'Such little employments' are like the pauses of music, they 'are rests to the spirit and intervals of labour.'—And therefore Johannes Sarisburiensis[y] allows of every game; "quæ, absque vitio, curarum gravium pondus allevat, et sine virtutis dispendio jucundam interpolationem gaudiorum affert;" "if it can ease our griefs or alleviate our burdens without the loss of our innocence."

31. Now that cards and dice are, of themselves, lawful, I do not know any reason to doubt. For if they be unlawful, it is because they are forbidden, or because there is in them something that is forbidden. They are no where of themselves forbidden: and what is in them that is criminal or suspicious? Is it because there is chance and contingency in them? There is so in all human affairs; in merchandise; in laying wagers; in all consultations and wars; in journeys

[t] Lib. 3. cap. 21.
[u] Lib. 8. cap. 8. Helfrecht. pag. 481.
[x] In Cæsarib.
[y] Polyc. lib. 1. cap. 5.

and agriculture; in teaching and learning; in putting children to school or keeping them at home; in the price of market; and the vendibility of commodities. And if it be said, that there is in all these things an overruling Providence; though no man can tell in what manner or by what means the Divine Providence brings such things to a determinate event,—yet it is certain that every little thing, as well as every great thing, is under God's government, and our recreations as well as our wagers. But what if it be and what if it be not? He can never be suspected in any criminal sense to tempt the Divine Providence, who, by contingent things, recreates his labour, and having acquired his refreshment, hath no other end to serve, and no desires to engage the Divine Providence to any other purpose: and this end is sufficiently secured by whatsoever happens. I know nothing else that can be pretended to render the nature of these things suspicious; and this is perfectly nothing: and as for the evil appendages which are so frequently attending upon these kinds of games, besides that they also are as near to other exercises as to these, as to bowling, horse-racing, cockfighting, the fight of quails and of partridges, bull-baiting, pell-mell, billiards, and all other games for money and victory, to some more and to some less, besides this, I say, the evil appendages are all separable from these games, and till they be separated, they are not lawful:—but they may be separated by the following advices.

Rules of conducting our Sports and Recreations.

32. Let no man's affections be immoderately addicted to them. And this requires a great diligence and caution. For as Petrarch said well, "Hoc est in regno stultitiæ commune, ut quarum rerum minor est fructus, et cupiditas et delectatio major sit;" "In the kingdom of folly we are most pleased with those things, by which we have the least profit." And the want of doing us good, is supplied by doing us pleasure. But the moderation of our affections to our sports is best expressed, by using them according to those measures, which wise and severe men use in their recreations, that is, not to be frequent or long in them. For it is in these, as in meat and drink,—which are then good, when they are necessary and useful to the purposes of our nature and employ-

ment. Sleep is necessary, and so long it is good: but a man must not therefore spend the best of his time in sleep, but that time that is allowed to it, and without which he cannot well do his business. The limits of these things are not so strait as necessity, nor yet so large as humour or desire; but as a man may drink to quench his thirst, and he may yet drink more to refresh his sorrow, and to alleviate his spirits, and to ease his grief, provided that he turn not his liberty into a snare, so he may in his recreation and his sports.

> Cito rumpes arcum, semper si tensum habueris:
> At si laxaris, cum voles, erit utilis.
> Sic ludus animo debet aliquando dari,
> Ad cogitandum melior ut redeat tibi[y].

Within this bound he must keep, that he lose none of his business for his sport;—that he make his other time more useful;—that this be the less principal;—that it be taken as physic, or as wine at most:—and the minutes and little points of this measure are no otherwise to be weighed and considered, but that we take those proportions which ourselves think we need to good purposes, or which we are advised to by a wise guide. To this purpose was that saying of Plato reported by Laertius; "Parum est alea ludere, at non parum est assuescere;" "It is no great matter[z] to play at dice or tables, but to be accustomed to it is a great matter;" that is, to make it a portion of our business, and expense of our time due to worthy employments: and therefore in the laws, not the action itself, but the abuse, and particularly the frequency, is noted and forbidden. "Ludentes quotidie ad aleam, et tabernarum frequentatores inter infames habentur," says the Constitution[a]. "Quorum aut latrunculi, aut pila, aut excoquendi in sole corporis cura, consumpsere vitam[b]:" "Men that spend their lives in cards and dice, and making much of themselves, haunters of drinking and gaming houses." A man may, innocently and to good purposes, go to a tavern; but they that frequent them, have no excuse, unless their innocent business does frequently engage, and their severe re-

[y] Phædrus. iii. 14. Schwabe, vol. 2. pag. 107.

[z] *It is no great matter to play at dice*] This former part of the answer attributed to Plato, by Bp. Taylor, does not belong to him—Ὁ γοῦν Πλάτων λέγεται, θαυμάσιός τινα κυβεύοντα αἰτιάσασθαι· τοῦ δὲ εἰπόντος, ὡς ἐπὶ μικροῖς; Ἀλλὰ τό γε ἔθος, εἶπεν, οὐ μικρόν.—Diog. Laert. ed. Longol. vol. 1. pag. 318. lib. 3. n. 26. (J. R. P.)

[a] Petrus Follerius.

[b] Senec. de Brevit. Vitæ, cap. 13. Ruhkopf, vol. 1. pag. 518.

ligion bring them off safely. And so it is in these sports, with this only difference, that there can be no just cause to frequent these sports: there is only one cause of using them, and that comes but seldom, the refreshment, I mean, of myself or my friend, to which I minister in justice or in charity; but when our sports come to that excess that we long and seek for opportunities, when we tempt others, are weary of our business, and not weary of our game,

—— Cum mediæ nequeant te frangere noctes,
Nec tua sit talos mittere lassa manus,

When we set up till midnight, and spend half-days, and that often too; then we have spoiled the sport, it is not a recreation but a sin.

33. He that means to make his game lawful, must not play for money, but for refreshment. This though, it may be, few will believe, yet it is the most considerable thing to be amended in the games of civil and sober persons. For the gaining of money can have no influence into the game to make it the more recreative, unless covetousness hold the box. The recreation is to divert the mind or body from labours by attending to something that pleases and gives no trouble; now this is in the conduct of your game, in the managing a prosperous chance to advantage, and removing the unprosperous from detriment and loss of victory, so to cross the proverb,

Πέντευκεν ἴξω κακῶν οὐ χίος ἀλλὰ κῶος,

and that by wit he may relieve his adverse chance, and by a symbol learn to make good and virtuous use of every cross accident. But when money is at stake, either the sum is trifling, or it is considerable. If trifling, it can be of no purpose unless to serve the ends of some little hospitable entertainment or love-feast, and then there is nothing amiss; but if it be not considerable, there is a wide door open to temptation, and a man cannot be indifferent to win or lose a great sum of money, though he can easily pretend it. If a man be willing or indifferent to lose his own money, and not all desirous to get another's,—to what purpose is it that he plays for it? if he be not indifferent,—then he is covetous, or he is a fool; he covets that which is not his own, or unreasonably ventures that which is. If, without the money, he cannot mind his game,—then

the game is no divertisement, no recreation, but the money is all the sport; and therefore covetousness is all the design: but if he can be recreated by the game alone, the money does but change it from lawful to unlawful, and the man from being weary to become covetous, and from the trouble of labour or study remove him to the worse trouble of fear and anger and impatient desires. But here indeed begins the mischief, here men begin for the money to use vile arts,

Quærit compositos manus improba mittere talos;

here cards and dice begin to be a diabolical art, and men are witty to undo or defraud one another.

—— Neque enim loculis comitantibus itur
Ad casum tabulæ, posita sed luditur arca[c].

Men venture their estates at it, and make their families sad and poor, because the dice turn upon an unlucky chance: and what sport is it for me to lose my money, if it be at all valuable? and if it be not, what is it to my game? But sure the pleasure is in winning the money. That is it certainly. But

Hoccin' est credibile, aut memorabile,
Tanta vecordia innata cuiquam ut siet,
Ut malis gaudeant, atque ex incommodis
Alterius sua ut comparent commoda? ah!
Idne 'st verum? Immo id est genus hominum pessimum.

Nothing is more base than to get advantages by the loss of others; they that do so, and make the loss of their neighbour their game and pastime, are the worst of men, said the comedy[d]. But concerning the loss of our money, let a man pretend what he please, that he plays for no more than he is willing to lose,—it is certain, he is not to be believed: for if that sum be so indifferent to him, why is not he easy to be tempted to give such a sum to the poor?—to give that sum?—his sport will not be the less, if that be all he designs. "Posita dum luditur arca, stat pauper nudus atque esuriens ante fores, Christusque in paupere moritur[e];" 'Whilst men play for great sums of money, a poor man at the door, redeemed by the blood of Christ, wants a shilling, and begs it for Christ's sake, and does without it.' Whenever the case is this or like this, he sins that plays at cards or dice or any

[c] Juven. i. 95. Ruperti, 2d ed. p. 12.
[d] Terent. Andr. act. 5. sc. 1. 1. Westerhov. vol. 1. pag. 146.
[e] S. Hieron. ep. ad Gaudent.

other game for money. It is alike in all games, for I know no difference; money is the way to abuse them all: and cards and dice, if there be no money at stake, will make as good sport and please the mind as well as any the sports of boys, and are as innocent as push-pin. For if we consider it rightly, from hence is taken the great objection against cards and tables, because men at these venture their money, and expose their money to hazard for no good end, and therefore tempt God; and certainly to do so is unlawful, and that for the reason alleged: but when we play only for recreation, we expose nothing of considerable interest to hazard, and therefore it cannot be a criminal tempting of God, as it is in gaming for money,

Ubi centuplex murus rebus servandis parum est[f],

where no wit, no observation, no caution, can save our stake: for,

Adversis punctis doctum se nemo fatetur;
Vulnera plus crescunt punctis quam bella sagittis,

says the epigram; 'No man is crafty enough to play against an ill hand;'—and therefore to put a considerable interest, to the hazard of the ruin of a family, or at least more than we find in our hearts to give to Christ, is a great tempting of God. And in these cases, as I have heard from them that have skill in such things, there are such strange chances, such promoting of a hand by fancy and little arts of geomancy, such constant winning on one side, such unreasonable losses on the other, and these strange contingencies produce such horrible effects, that it is not improbable that God hath permitted the conduct of such games of chance to the devil, who will order them so where he can do most mischief; but, without the instrumentality of money, he could do nothing at all.

34. There are two little cases pretended to lessen this evil, and bring it from unlawful to lawful. The one is, that when a man hath lost his money, he desires to play on for no other reason but to recover his own: the question is, whether that be lawful or no. To this I can give no direct answer; for no man can at first tell, whether it be or no: but at the best it is very suspicious, for it engages him upon more

[f] Plaut. Persa.

loss of time, and he tempts God in a further hazard, and gives himself the lie by making it appear, that, whatever he pretended, he did play for more than he was willing to lose.

Sic, ne perdiderit, non cessat perdere lusor;
Et revocat cupidas alea blanda manus[g].

He plays on that he may give over, and loses more that he may not lose so much, and is vexed with covetousness, and chides his fortune, and reproves he knows not what: so that by this time I can tell whether he sinned or no; for though it was hard to say whether he did well or ill to desire the recovery of his money, yet when we see upon what terms it is designed and acted, the question is very easy to be resolved, and the man had better sit down with that loss than venture a greater, and commit more sins.

35. The other case is this; If I can, without covetousness of the money, play, is it then lawful? and to show that I am not covetous, I will give the money I spend, to the standers-by, or to my servants, or the poor. When Theodoric, king of the Goths, did win at dice or tables, he was very bountiful to his servants, and being over-pleased with his own good fortune, would grant them any thing. But Augustus Cæsar[h] did use to do this thing bravely. He gives this account of himself in a letter of his to Tiberius; "Ego perdidi viginti millia nummum meo nomine: sed quum effuse in lusu liberalis fuissem, ut soleo plerumque. Nam si, quas manus remisi cuique, exegissem,—aut retinuissem, quod cuique donavi, vicissem vel quinquaginta millia: sed hoc malo. Benignitas enim mea me ad cœlestem gloriam efferet." He lost, suppose, two thousand crowns; but it was not his ill fortune or his ill conduct, but his excessive liberality: he forgave to many what he had won, and other sums which he took, he gave to the standers-by, and chose this bounty as the way to immortality.—Now, it is true, this is a fair indication that covetousness is not the prevailing ingredient; but to him that considers it wisely, it will appear to be but a splendid nothing. For what kind of sport is that to bring it into my power to oblige my playfellow with his own money? and what bounty is that by which I reward my friends and ser-

[g] Ovid. Ars. Am. lib. i. 451. Mattaire, vol. 2. pag. 190.
[h] Sueton. Octav. cap. 71. B. Crusii, vol. 1. p. 332.

vants with another man's estate? Parysatis did it yet more innocently; when playing with her young son, Artaxerxes, she, on purpose, lost a thousand darics at a throw, to help the young prince to money. Thus far it was well enough; for I doubt not but it is as lawful to lose my money, as to give it away, if there be nothing else in it: but besides that it is not so honourable,—it may be, he that plays against me, is not of my mind, or of my ability,—and I correspond to him in an action, in which he is not so innocent as I should be, if I did not something minister to his evil: so that though I play that I may oblige him, yet there are so many circumstances required to keep myself and him innocent, that it is a thousand times better, in some cases, to give him something, and, in all cases, to play for nothing.

36. For it is a worthy inquiry, if we ask, whether it be lawful for a man to possess what he gains by play?—For if it be unlawful, then when he hath won, he hath got nothing, but is bound to make restitution, and cannot give alms of that; and then it can be good for nothing, but on all sides pierces his hand that holds it, like a handful of thorns. But in answer to this question, if I shall speak what I think, I am like to prevail but little, because the whole world practises the contrary;

> ——— Et nunc in hacce publica
> Contage morum, congreges inter malos
> Malum esse jus est.
> Nam nunc mores nihil faciunt, quod licet, nisi quod libet[i];

Nothing prevails but evil manners, and evil propositions; and in such things as these, it is easy to confute a good counsel or a severe reproof, by saying, The man is angry, or too strict, and all men are not of his mind. Therefore in this inquiry, I shall only tell what I have learned in the schools of wisdom, in the laws of wise people, and the sayings of holy men. In the civil laws of the Romans[k], all the money that these gamesters won, was taken from them, and spent upon public works: and he that lost and paid the money, was punishable; for the senate forbade to play for money, or to make any promise, or give any pledge for payment. The same hath been forbidden by the laws of many

[i] Trinum. iv. 3. 25. Ernesti, pag. 421.
[k] Lib. 3. Cod. tit. 43. Vide ibi Cujacium, et Wesenbeck. ff. lib. 11. tit. 5.

republics, "ut quod ille in alea perdiderat, beneficio legis dissolveret[l]," that the law should pay, what the fool and prodigal had lost. An old epigrammatist affirms, that such gains will never thrive:

Per scelus immensas quid opes cumulare juvabit?
Turpiter è manibus res male parta fluit.

And no wonder, if such gains be the purchases of a thief, and no better than robbery. Aristotle[m] joins them together in the same kind of dishonourable crime: Ὁ μέν τοι κυβευτὴς, καὶ ὁ λωποδύτης, καὶ ὁ λῃστὴς, τῶν ἀνελευθέρων εἰσίν· αἰσχροκερδεῖς γάρ; "He that plays at dice for money, and the thief, are illiberal gamesters, for they are guilty of filthy lucre." And Seneca[n] says,

——— immensas opes
Jampridem avaris manibus, ut perdat, rapit.

He is greedy, and gets nothing; he wins much, and loses more; he snatches from his neighbour what belongs to him, and loses that and his own beside. Pascasius Justus observes, that the Spaniards call such gamesters 'tabur,' which is the metathesis of 'hurta,' 'a thief;' for to cast the dice for money, what is it but to desire to take another man's money against his will? and that is theft. St. Bonaventure[o] says, that what is gotten by play, is possessed by no good title, and cannot be lawfully retained; he that lost it, hath, indeed, for his folly, deserved to lose it; but he that hath it, does not deserve to keep it; and therefore he must not;—nor yet must he restore it to him that lost it, unless he persuaded or compelled him to play; but therefore the money is to be given to the poor:—and the same also is expressly affirmed by St. Austin[p]. Now if it be not lawful to retain such purchases, they are not our own when we have won them, and therefore it is no thanks to us if we give them away. "Aleatoris eleemosyna invalida est et nihili apud Deum," saith St. Bonaventure[q]. "Oblatio enim de rapina reprobatur," saith the canon law, and "eleemosynæ et sacrificium non placent Deo, quæ offeruntur ex scelere." The

[l] Cicer. ad Atticum. ep. 13. lib. 1.
[m] Lib. 4. Ethic. cap. 1. Wilkinson, pag. 142.
[n] Octav. 434. Schröder, pag. 771.
[o] Specul. Anim. cap. 2. et in Sent. lib. 1. dist. 25. part. 2. art. 2. q. 1. in conclus. ad 4.
[p] Epist. 54. ad Macedon. [q] Ibid.

money is gotten by an equivocal contract, and an indirect rapine, and therefore can never become a pleasing sacrifice to God; it is a giving our goods to the poor without charity, and "that profits not," saith St. Paul[q]. But at last, although he that loses his money, deserves to lose it; yet because by laws, such purchases and acquisitions are forbidden, and we have no right to give alms of what is not our own, and as God will not accept it when it is done by us,—so he hath no where commanded that it should be done at all; therefore it is certain, that all such money is to be restored, if the loser please. "Bona, alea amissa, tanquam furto ablata, veteres restituenda putabant." St. Austin[r] said, that 'the ancients did affirm, money, won by dice and tables, ought to be restored, like the money that was stolen.' But if the owner will not, let it ascend to pious uses. And if this be the state of this affair, it cannot be lawful to play at cards or dice for money. For "the love of money is the root of all evil; which some having coveted, have pierced themselves through with many sorrows." And this appears yet more in the next advice.

37. No man can play lawfully at such games, but those who are dispassionate, and of sober spirits, under the command of reason and religion; and therefore to play for money will be quickly criminal; for,

> Ploratur lacrumis amissa pecunia veris;
> Et majore domus gemitu, majore tumultu
> Planguntur numi quam funera[s]:

"Men may weep solemnly for the dead, but they will be heartily troubled when their money is departed;" and therefore there is but little sport in such games. And this Alexander the Great rightly observed[t], when he set a fine upon some friends of his, "quod in ludo aleæ sensisset eos non ludere, sed velut in re maxime seria versari, fortunas suas omnes aleæ permittentes arbitrio;" "because they did not play at dice, but contend as in a matter of greatest concernment." And certainly so it is. For do not all the nations of

[q] 1 Cor. xiii. [r] Ubi supra.

[s] Juven. Sat. 13. 130. Ruperti, 2d edit. pag. 254.

[t] *Observed*] Plutarch does not attribute to Alexander any *observation*, but merely states the fact of Alexander's fining his friends, for being too earnest in playing at dice: τῶν δὲ φίλων τινὰς ἀλοβήμονας ἐν τῷ κυβεύειν οὐ παίζοντας ἐζημίωσε. Apoph. Xyl. tom. 2. p. 181. D. (J. R. P.)

world think the the defence of their money and estates a just cause of taking up arms and venturing their lives? he that plays at games of fortune, should put nothing to fortune's conduct, but what he can perfectly subject to reason every minute. Seneca[a] tells that Julius Canus was playing at tables, when the centurion being sent upon a desperate service, and leading, 'agmen hominum perituroram,' 'a troop of men to death,' happened to call him out to march in that service. Julius Canus knew the danger well enough; but being summoned, called to his playfellow to tell the men upon the tables; and 'now,' says he, 'do not say when I am dead, that you had the better of the game;' and desired the centurion to bear him witness, that he had one man more than the other. He that is thus even and serene, may fairly play; but he that would be so, must not venture considerable portions of his estate, nor any thing, the loss of which displeases him, and shakes him into passion. Not that every displeasure, though for a trifle, is criminal; but that every degree of it tends to evil, and the use of it is not safe, and the effect may be intolerable.

Ludit cum multis Vatanas, sed ludere nescit:
Et putat imperio currere puncta suo.

If the chances will not run, as we would have them,—or, if our passions will not; then it is at no hand safe to play; unless to fret, and vex secretly for trifles, to swear and lie, to blaspheme and curse, to cheat and forswear, to covet and to hate, can be innocent.

38. Upon these accounts it is, that wise men[x] advise, that young men be, at no hand, permitted to play at dice or the like games. "Ab isto lusu arcendi sunt pueri, tum propter pecunias quas perdunt, tum propter vitia quæ colligunt, et mores pravos quos inde addiscunt. Young men and boys lose their money and learn evil manners at such games; they have great passions, fierce desires, and quick angers, and their flames are stirred perpetually with chance. It is a sad story that is told[y] of the young prince, the only son of Claudius the emperor, who when he had lost all his money at dice,

[a] The reader may wish to read this anecdote in the original:—"Ludebat (Canus) latrunculis, quum centurio, agmen perituroram trahens, illum (Canum) quoque exciteri jubet. Vocatus numeravit calculos, et sodali suo, 'Vide,' inquit, 'ne post mortem meam mentiaris te vicisse.'—Tum annuens centurioni; 'testis,' inquit, 'eris, uno me antecedere.'" De tran. an. cap. 14. Ruhkopf, vol. 1. p. 369.

[x] Anton. Guevara. Horol. Princ. [y] Per Anton. Guevara.

and tired out all his invention for the getting more, and could not do it fairly,—being impatient of his loss, and desirous of new hopes and ventures, he stole a rich jewel from his father's closet, the prince's tutor knowing and concealing the theft. But it came to the emperor's ear, and produced this tragedy. He disinherited his son; he banished all the prince's playfellows; and put the tutor to death. Young men are not to be trusted to play with such aspics. And therefore Sidonius says, "Alea est oblectamentum senum, ut pila juvenum;" "Tables for old men, and the ball for young men." Cato allows to young men, arms, horses, and bows, and such-like sports; but would have dice and tables permitted to old men, whose minds are more to be refreshed with diversion, than their bodies by laborious exercise. And in allusion to this, Augustus, in his letter to Tiberius, mentioned by Suetonius, hath these words; "Inter cœnam lusimus γεροντικῶς et heri et hodie," "Yesterday and to-day, we played like old men;" that is, at tables. But this is matter of prudence, and not of conscience; save only that old men are more masters of reason, and rulers of their passion, and a sedentary exercise being fittest for them, they who cannot but remember that they are every day dying, though possibly they need some divertisement to their busied and weary spirits, yet they do more need to remember their latter end, and take care to redeem their time, and above all things, not to play for any considerable money, not for any money, the loss whereof is bigger than a jest: and they that do thus, will not easily do amiss. But better than all these permissions, is that resolution of Cicero[z]; "Quantum alii tribuunt tempestivis conviviis, quantum denique aleæ, quantum pilæ; tantum mihi egomet ad hæc studia recolenda sumsero," "What time other men spend in feasting and revellings, in dice and gaming, all that I spend in my studies:" and that is very well. For though there is good charity in preserving our health, yet there is a greater necessity upon us, that we do not lose our time.

39. (5.) That our games may be innocent, we must take care that they be not scandalous, that is, not with evil company, not with suspicious company. "Ciceroni nequissimorum hominum in ludo talario consessus?" "Shall Cicero

[z] Pro Archia, cap. 6. 6. Wetzel, pag. 171.

suffer base persons to sit and play at tables in his house [a]?" That is not well: and therefore he objected [b] it as a great crime to Mark Anthony, whose house was frequented with gamesters and drunkards. We must neither do evil, nor seem to do evil: we must not converse with evil persons, nor use our liberty to our brother's prejudice or grief: we must not do any thing, which he, with probability or with innocent weakness, thinks to be amiss, until he be instructed rightly; and if he be, yet if he will be an adversary and apt to take opportunities to reproach you, we must give him no occasion. In these cases, it is fit we abstain: where nothing of these things does intervene, and nothing of the former evils is appendant, we may use our liberty with reason and sobriety. And then, if this liberty can be so used, and such recreations can be innocent, there is no further question, but those trades which minister to these divertisements, are innocent and lawful.

RULE III.

The Act of the Will alone, although no external Action or Event do follow, is imputed to Good or Evil by God and Men.

1. THE will of man, in the production and perfecting of a sin, hath six steps or degrees of volition, in all which the sin is actual, excepting the first only. (1.) The inclination of the will is the first; and that so far as it is natural, so far it is innocent. Sin oftentimes enters in at that door, but the door was placed there in the first creation; it was a part of that building which God made and not man, and in which every stone and stick were good. It was not made for sin, but for virtue: but it was made so, that if we would bring sin in that way, it was in our choice, and at our peril. But although this be the case of our natural inclination, yet if our inclinations be acquired, or increased, or habitual, that is, if they become facilities and promptitudes to sin, they are not innocent: for this state is a state of sin and death; it is

[a] Ad Attic. ep. 13. lib. 1.

[b] "Domus erat aleatoribus referta, plena ebriorum." Philip. 2a. cap. 27. n. 67, Priestley's Cicero, vol. 3. pag. 1386.

the effect of many vile actions and vile desires; it is an aversion from and enmity against God; it is a bed of desires which are sometimes asleep, and then do no more mischief than a sleeping wolf, but when they are awake, they do all the evil they can. And therefore the case of an habitual sinner[c] is such, that even his first inclinations to any forbidden action, in the instance of his own habit, are criminal as the external effect. But, in natural inclinations, the case is different. (2.) The first beginning of the sin is, when the will stops and arrests itself upon the tempting object, and consents only so far, that it will have it considered and disputed. Then the will is come too far, not when it is willing a thing should be disputed whether it be lawful or unlawful, good or evil; but when it is willing it be considered which is to be followed, reason or sense, wise counsels or sensual pleasures: for when the will is gone so far, it is passed beyond what is natural, and come so far towards choice and guiltiness, that it is yet no more friend to virtue than to vice, and knows not which to choose. (3.) The next step the will makes, is, when it is pleased with the thought of it, and tastes the honey with the top of a rod, a little fantastic pleasure beforehand in the meditation of the sin. This prelibation is but the antepast of the action, and as the twilight to the dark night, it is too near an approach to a deed of darkness. (4.) When the will is gone thus far and is beyond the white lines of innocence, the next step towards a perfect sin is a desire to do the action; not clearly and distinctly, but upon certain conditions, if it were lawful, and if it were convenient, and if it were not for something that lies cross in the way. Here our love to virtue is lost; only fear and God's restraining grace remain still for the revocation of the man to wisdom and security. (5.) But when this obstacle is removed, and that the heart consents to the sin, then the spirit is departed, and then there remains nothing but that the sin be (6.) contrived within, and committed to the faculties and members to go about their new and unhappy employment; and then both the outward and the inward man have combined and made up the body of a sin. But the sin begins within, and the guilt is contracted by what is done at home, by that which is in our own power, by that which nothing from without can hinder.

[c] Vide Unum Necessar. cap. 5. of Habitual Sins.

For as for the external act, God, for ends of his own providence, does often hinder it; and yet he that fain would, but cannot, bring his evil purposes to pass, is not at all excused, or the less a criminal before God.

Question.

2. But is it not a mercy for a man to be recalled from acting his adultery? is it not charity to two persons to keep Autolycus from killing the steward of Stratocles?—and if so, then there is sin in the action as well as in the affection, and the hand sins distinctly from the heart: but then it will be found untrue to say that all our good and evil come from the will and choice: and yet it will not be possible to tell, from what principle the evil of the hand is derived, if not from the evil will. This brings a necessity of inquiring into the union or difference of the actions internal and external, and the influence the will hath upon the external act, and whether it can have any aggravation or degree beyond what it receives from the inward principle.

3. To this therefore I answer, that all the morality of any action depends wholly on the will, and is seated in the inner man; and the eye is not adulterous, but it is the instrument of an adulterous heart; and the hand is not the thief before God, but the covetous desire is guilty: and this appears in this; because if a man takes the goods of his neighbour, which he would not have taken if he had supposed they had been his neighbour's, he is innocent before God. And yet it cannot be denied but it is worse to steal than to covet; it is worse to humble and dishonour our neighbour's wife than to lust after her. But the reason is, because the doing of the action supposes a great many precedent acts of lust, even the whole method and economy of sin: for every act of the will, every degree of desire, is lusting or covetousness; and the external act which supposes them all, is worse than all they except the last. The natural inclination of the will is but a capacity or readiness and disposition of the faculty, and is no act. But the arrest and stop of the will, the delight in fancying, the desire of action, the consent of the heart, and the deliberation and resolution, these are the acts and products of the will; and the second is worse than the first, and the third worse than the second, and so till we come to the

immediate address to the action. But that action is not worse than the last resolution and deliberate purpose of the will; and therefore when it is charity to hinder the man from acting his lust,—it is therefore charity, because, in the acting of the sin externally, there are more acts of the will, even the whole method of death is completed; and the same acts of will are repeated, or confirmed; and there is mischief done to some person or to some interest, to something besides the sinning man; and there are some contingencies and some circumstances to which new actions of the will must be consenting, and give their influence and renew their acts: but still, if we compare every consent and deliberate purpose of the will with the action, or that part of the action which is immediately produced in it, there is in that event no morality, and no good, and no evil, but what is first within. So that he who hinders a man from acting of his lust, does hinder him not from sins distinct from those of his will, but from more sins of the will, from repetition, or confirmation, or abiding in the same chosen folly.

4. Upon this account it will be easy to answer whether is the greater sin, the wishing and desiring of a very great evil, and willingly doing but a little one,—or the doing a very great evil and intolerable mischief with a little malice. For it is certain that the sin is much more increased by the malice of the action and effect, than by the malice of the will, if the malice of the will be little, and the evil of the event be great and intolerable. For at first to desire a very great mischief, and then to act but a little one, supposes that the great malice went not to its utmost period; it was desired, but not resolved on, and deliberately determined: and then that malice, although in itself great, yet it was ineffective, and was retracted before it was consummate by the will, and acted by her subjects, the other faculties and members. But now, if a great mischief be done by a little malice, to that little malice all that event is to be imputed: though not to it alone, yet to that malice managed by ignorance, carelessness, and folly; which being no excuses, but of themselves criminal appendages, the man shall be judged by his action, not by his ignorant and imperfect choice; because though the choice was naturally imperfect, yet, morally and in the whole conjunction of its circumstances, it was completely

criminal. If this thing happens to be otherwise in any particular, God will discern it, and not man; for the greatness of the mischief in human laws and accounts supposes the greatness of the malice, if malice at all, and not chance wholly, was the principle. But if the question be in the acting of a great mischief where the sin most lies, in the will or in the event, I say it is originally in the will; and it is equally in the event, if all that event was foreseen and known, although it was not principally or at all designed. He that steals a cow from a widow, and does verily believe that the loss of her cow will not only undo her, but break her heart, though he does not design this, yet because he knows it, all that event is to be imputed to him. They that abuse their own bodies by abominable and unclean contracts, and the sin of Onan,—though they design only the pleasing of their lust, yet if they consider what they do, and what will be the event, they secondarily choose all that event, and are as guilty of it as of that which they principally designed.

——— quod pellice læva
Uteris, et veneri servit amica manus;
Hoc nihil esse putas? scelus est, mihi crede, sed ingens,
Quantum vix animo concipis esse tuo.
Ipsam crede tibi Naturam dicere rerum,
'Istud quod digitis, Pontice, perdis, homo est[d].'

For the internal act of the will and the external act of the man are but one act, unless the instrument and the efficient cause produce two distinct effects in every concourse; and whatsoever is done without, is first consented to within, and is but the ministry and execution of the sin within. For the act of choosing is the foundation of all morality: and therefore when not only the first design, but the appendages and other consequents are foreseen, and yet the action is chosen, the will is guilty of so many evils as it chooses directly and indirectly, principally and consequently.

5. But to reduce this doctrine to more minute and particular considerations and order.

Of the Identity and Diversity, respectively, of Actions internal and external, and the Multiplications of Sins by them.

Every external act, proceeding from the internal, makes but one moral act, whether it be good or bad. The elec-

[d] Mart. ix. 42. Mattaire, pag. 175.

tion and choice are the foundation: and as they are many houses which are built upon many foundations,—but many chambers and galleries, built upon one foundation, is but one house, though there be many rooms;—so the internal and external, relying upon one basis, operating to the same end, effecting the same work, having the same cause, and being but several lengths of the same thread, do not make two acts; as the soul, seeing by the eye, hath but one vision,—and the will, acting by the hand, does but her own act by her own instrument: and therefore although they are physically or naturally several actions, because elicit and acted by several faculties,—yet, morally, they are but one; for what the hand or eye alone does, is neither good nor evil, but it is made so by the mind and will.

6. If there be two acts of will in one external act, there is a double malice or goodness respectively. A prince commands his almoner to give much alms to the poor: the almoner, being also a good man, loves the employment, and does it very often: the external act is but one ministry of alms, but the internal is both obedience and charity.

7. The external act is the occasion of the intending or extending the internal, but, directly and of itself, increases not the goodness or the badness of it. For the external is not, properly and formally, good or bad, but only objectively and materially; just as a wall cannot increase the whiteness, unless the quality itself be intended by its own principle. But as heat in iron is more intense than it is in straw; so may the goodness or the badness of an internal act be increased by the external: but this is only by accident. By instances of these several assertions, they will be more intelligible. When John, surnamed 'the Almoner,' commanded his boy to carry an alms to a poor man that was sick in the next village, the boy sometimes would detain it and reserve it for his own vanity; but St. John lost not the reward of his charity, for his internal act was good, but it was no cause of the outward event at all. And on the other side when Mævius lay with his wife Petronilla, supposing she had been Nicostrata, he was an adulterer before God, though by the laws of men he was harmless. And if a man steals a horse in the night from his neighbour's field, and carries him away secretly, and by the morning perceives it to be his own, he is

no less guilty before God and his confessor, than if he had indeed stolen his neighbour's. The reason is, because the external act hath another cause, which is, or may be, innocent, but the internal act was, of itself, completely evil and malicious. In these cases, where the internal volition is not the cause of the external event, the sin is terminated within; and that to him who is to be our judge, is as visible as any thing. But when the internal volition is properly the cause of the action external, there more is done than it could do alone. For, in a good work, the will finds the difficulties, which it could not perceive, while it was only in purpose; and it is easy to resolve to be patient in sickness, when we feel nothing of it, but only discourse it, and cast about in our easy minds what we suppose it will be: but 'tu si hic esses, aliter sentires,' said the sick man; it may be, when it comes to be acted, the will shall find new work, new difficulties, and will need new fortifications, and renewed resolutions, and the repetition of acts, and fresh aids of reason: so that although all the good or evil that is in all this, is the good or evil of the will; yet this is it which I said, that the external action hath in it the materiality of good and evil, and by accident the external act is better than the internal; that is, the will does better when she reduces her purposes to act very often, than when she does only resolve. And for this very reason,—

8. The external act does superadd new obligations beyond those, which are consequent to the mere internal volition, though ever so perfect and complete. For the external act is exemplar in virtue, or scandalous in evil; it obliges to restitution, to ecclesiastical censures and legal penalties, in which there are active and passive duties incumbent on us; as I have represented in the third book. Thus also in good things; the external participation of the sacrament hath in it some advantages beyond the internal: but these things are accidental to the action, and nothing of the nature of it; they are nothing of the direct morality, but the consequent of it; which the sinner ought indeed to have considered beforehand, and to act or to omit accordingly.

9. If the course and continuance of the outward act be interpreted, and then proceeded in again, when the cause of the intercision is over, that action, seeming but one, is more

than one sin, or virtuous act, respectively. He that resolves to bring up a poor orphan in learning and capacities of doing and receiving worthy benefit, does often sleep and often not think of it, and hath many occasions to renew his resolution; although his obligation be still permanent, yet if he delights in it, and again chooses, so often is the alms imputed to him, he does so many acts of charity. Titius intends to give to Codrus a new gown at the next calends, but forgets his intention; but yet at the calends, does, upon a new intention, give him a gown. This act is but one, but hath no morality from the first intention, but from the second, though there were two internal acts of volition to the same external: because the first did cease to be, and therefore could have no influence into the effect. But this multiplication of actions and imputations, cannot be by every sudden and physical interruption, but by such an interruption only, where the first intention is not sufficient to finish the external act. Thus if a man against his will nod at his prayers, and awakening himself by his nodding, proceed in his devotion, he does not pray twice, but once, because the first intention is sufficient to finish his prayer. But if he falls asleep overnight, and sleeps till morning, his morning-prayer is upon a new account, and his will must renew her act, or nothing is done. But, in instances of good, this part of the rule hath but little use: for no man will dare to call God to a strict and minute reckoning, and require his reward by number and weight. But, in sinful actions, there is more consideration; and if we be not strict in our weights and measures, God will; and if we will not be sure to put enough into the balance of repentance, there will be too much in that of judgment and condemnation: and therefore it concerns us as much as we can, to tell the number of our sins. Therefore,

10. External actions in order to one end, though produced by one internal act or resolution of the will, yet do not make one external act, unless the end be at the same time required. Thus if the man resolves to lay wait for his enemy till he have destroyed him, and therefore lays wait to-day, and to-morrow, and prevails not until the third day,—his sin is more than one, though his resolution was but one. The reason is, because there must, of necessity, be a repetition of the same resolution, or at least of some ministering

acts towards the perfecting that resolution; and although the resolution and the end were one, yet to every ministering intermedial act, there is also some internal act proportionate. Thus every impure contract, in order to impure embraces, is a sin distinct from the final adultery, and so is the joyful remembrance of it afterward. But because these things have in them some little intricacy, therefore I add this which is plain and useful: Every renewing of an external action subordinate to a final end, is either a repeating of the sin, or, which is all one, it is an aggravation of it; it extends it, or intends it. He that calls a man fool three times together, either commits three sins, or one as great as three; and he that strikes seven blows to kill a man, hath so many times lifted up his hand against God; and though he hath killed the man but once, yet he shall be avenged seven times. But if, after any notable interruption of the act, the intention be renewed, so often is the sin repeated, though it be but one external event afterward. He that resolves, every day of the week, to be absent from divine service the Sunday following, is to estimate his sin by the number of his internal actions, and not by the singularity of that omission.

11. Internal acts of the will are then multiplied, when they proceed after an express revocation, or a deliberate intermission, or a considerable physical interruption, or by an actual attendance to things incompossible and inconsistent with the first resolution. There is no difficulty in these particulars, save only that in making judgments concerning them, we proceed by prudent and moral proportions, by the usual measures of laws, and the accounts of wise men: only the extremes are evident and notorious. For he that, being upon his knees, loses his attention for a minute, and then recalls it, does not pray twice, or so often, as he again thinks actually of what he is doing: and we are sure that he who says a 'pater-noster' to-day, and another, to-morrow,—does pray twice: and between these no certain rule can be given, but what is measured and divided by prudence and similitude, with the unity of natural and artificial compositions. But he only does well, who secures his cases of conscience in this inquiry, by interrupting his evil acts as soon as they begin, and gives them quite over as soon as they are interrupted; and, when he hath chosen well, perseveres as long

as nature and exterior accidents will give him leave, and renews that choice as soon as his divertisement can cease.

Question.

12. In the pursuit of the matter of this rule, it is seasonable to inquire concerning what degrees of guiltiness are contracted by the beginnings and desires of wickedness, which are imperfect and unfinished.

I have already [e] given account, that the inward acts of the will are very often punishable by human laws, and from thence some light may be reflected to this inquiry, which is concerning the estimate, which God and the conscience are to make of imperfect actions; for though in human accounts and the estimate of our laws, that a thing is secret or public, is a great difference and concernment; yet in this question, and in relation to God and the conscience, immediately, it is nothing at all, for nothing here is secret, every thing is visible, and it is always day here. But now the inquiry is concerning those things which are imperfect, and so sometimes are secret as to men, because they are only in desires, and sometimes they are public, but yet not finished and completed. And here the rule is, "Nunquam mens exitu æstimanda est [f]." God judges not by the event, but by the mind, by the good or ill will: so Apuleius: "In maleficiis, etiam cogitata scelera, non perfecta adhuc, vindicantur, cruenta mente, pura manu:" "He that thinks it, that is, that resolves it perfectly, putting the last hand of the will to it, his mind is bloody, though his hand be pure, and shall find an equal vengeance."—But this is to be understood of the last act of the will, and that which is immediate to the external action; if it be in counsel, that is, not whether it shall be done or no, but how it shall be done, it is as bad and hateful in the eyes of God, as the external violence. To this purpose is that of Paulus [g] the lawyer: "Concilium uniuscujusque, non factum puniendum est;" "Not the fact, but the counsel, is to be punished:" by 'counsel' meaning the design and resolution, the perfect and complete volition, which is then, without all question, come to the perfection of its malice and evil heart, when it is gone as far as to the beginning of the action. "Insidiatus civi etiamsi non effecerit scelus, pœnas tamen legi-

[e] Lib. 3. chap. 1. rule 4. [f] Quintil. [g] Sententia. 5.

bus solvet," said Quintilian; "He that lays a snare for a man's life, shall smart for it, though the man escape; the laws shall punish him:" but if they do not, it is all one in conscience. For as Donatus[h] said well, "Non perficere sed conari velle aliquid ad scelus, effectio est, etiamsi non potest fieri." It is nothing to the sinner that God defends the innocent, and rescues him from his fraud, or violence, or slander; he hath done his work when he resolved and endeavoured it. For there are no degrees of morality beyond the last act of the will: the sin or virtue may be extended by multiplication or confirmation of the same acts, but no way intended beyond that act of the will which commands execution.

13. But this distinction ought to be observed, not only in order to punishments inflicted by human laws upon criminals accused of imperfect acts, but in order to conscience. For though the whole morality of the act depends upon the last purpose of the will, and is before God the fulness of the sin in respect of degrees of any simple sin; yet when it passes on to execution, the will may grow worse by repetition of her acts; or, abiding in them, she may sin more sins. For the acts themselves about which there are endeavours made, are not always perfect, so as the criminal can perfect them; for it is not to all purposes perfect, when the will hath commanded the resolution to be acted,—no, nor when something is done towards it by the sinning man, but something else may be added; and till it be, there is some difference in the case. The examples will clear it. Priscus Merula resolves to kill his brother Taurinus, and, in order to it, buys a dagger, waylays him as he goes to Augustus, sets upon him, throws him down: but as he is lifting up his hand to strike, hears a noise behind the hedge, and being affrighted, curses his brother and wishes him dead, and runs away. Merula is, in the sight of God, guilty of murder; and if he had killed him effectually, there had been no greater malice, but more mischief, and more acts of malice; and therefore the judges are to diminish something of his punishment, not only because the life of a citizen was not lost, but because Merula had not done all his part of the murder, that is, his brother could not have died, unless he had done something beyond what he did.

[h] In Andria, act. 1. sc. 4.

But when the Egyptian nobility being weary of a dull melancholy prince, who, by his healthless spirit, was good for nothing, gave him a brisk poison to dispatch him; that which would have burnt to ashes any person that had any fire within him, did but heighten him to the ordinary temper of another man; it only warmed him into an active spirit, and he became a wise prince. Here the murder was not effected, but there was, on the traitor's part, nothing wanting to the completing of the wickedness: and therefore, as, in human laws, they are to have no abatement of sentence extraordinary; so, in the court of conscience, they are to think of no excuse, no diminution, but every thing is present, that can make all that greatness which can be in the nature of that sin: and in the first case there may be an alteration so timely, as to change the mind before it was at the utmost end of the line of wickedness; but in the second case, whether the effect follow or no, there is a place left for nothing, unless, peradventure, for repentance. That part which concerns human laws, is alterable as men please, and in Christendom (unless it be in the greatest crimes), custom hath, against the purpose of laws, given impunity to them, who, without effect, have attempted to commit vile actions; yet, in the court of conscience, and by the measures of religion, the matter is unchangeable.

14. There are some other ways of imperfect acts, which are to be regulated by the proportion of these measures. 1. He that kills a child in his mother's womb, is as guilty of murder, as he that kills a man in the field, if he did equally intend it. In this it is true that the lawyers and physicians distinguish the time of the abortion. If the child was efformed into a human shape, it is capital by the laws; but not if it was inform and unshapen. But in order to conscience I perfectly consent to the doctrine of the old Christians, recorded by Tertullian[1]: "Etiam conceptum utero, dum adhuc sanguis in hominem deliberatur, dissolvere non licet. Homicidii festinatio est prohibere nasci. Nec refert natam quis eripiat animam an nascentem disturbet. Homo est, et qui futurus est: etiam fructus omnis jam in semine est:" 'While the blood is in deliberation whether it shall be male or female, it is not lawful to dissolve it; and he that intends to hinder it from life, is but a hasty murderer. He is guilty of

[1] In Apologet. et in Exhortat. Castit. et de Virg. Velandis.

inferring death who prevents that to have life, to which God and nature did design it.' But this is owing to the choice and design of the will, for the effect of one is much less than the effect of the other upon many considerations: but if the malice was not less, the difference of the effect makes no diminution.

15. The other case is, "If a man smite his neighbour that he die, he shall surely be put to death," saith God to Moses[k]. That is, if he purpose to smite him, though he did not purpose to kill him, but wound him only, he hath sinned unto death. The Vulgar Latin reads it, "Qui percusserit hominem volens occidere:" "He that smites a man, willing to kill him." But this last clause is neither in the Hebrew nor the Greek. And though it is something less to intend to wound him grievously, than to kill him; yet he that willingly gives that wound, which he would have do him a mischief, and gives it so that it does give him his death,—had a malice so great, that it could not well discern between wounds and death. But, in this case, though it is certain God will judge righteously, and make abatement if there be any cause; yet in human laws, and, in the measures of his own repentance, he will not and ought not to find gentle sentences, but the whole perfect event will be imputed to the imperfect act of his will. For it was too much that he was willing to do any mischief; and "ex toto noluisse debet, qui imprudentia defenditur," said Seneca: he cannot pretend that the evil event was against his will, when it is certain he did perfectly consent to a great part of it.

RULE IV.

An involuntary Effect, proceeding from a voluntary Cause, is imputed to the Agent, as if it were voluntary and directly chosen.

1. He that is husband of the wife, is justly presumed to be the father of the child, and he that chooses the cause, must own all those, which are the effects and proper productions of it; and all causes are not immediate and contiguous to the

[k] Exod. xxi. 12.

effect. He that drinks himself drunk, that without fear and shame he may fornicate,—though when he fornicates, he hath not the use of his reason any more than of his modesty, and cannot deliberate, and therefore cannot choose,—yet he is guilty of fornication as well as drunkenness. He that eats high and drinks deep, that in his sleep he may procure pollution, is guilty of that uncleanness as well as of that excess, which St. Paul intimates in those words, "Make not provision for the flesh to fulfil the lusts thereof;" that is, what you design as the purpose of your intemperance, is your crime though it be a natural effect, when things are by your choice so disposed.—And when our blessed Saviour commanded[l] us to "take heed of surfeiting and drunkenness," he forewarned us as well of the effect as of the cause; for κραιπάλη παρὰ τὸ κάρα πάλλειν, surfeiting hath its name from the event, because "it causes dissolutions of the nerves and dilutions of the brain," and consequently palsies, which when we have contracted, we are, by our own fault, disabled in the service of God. Κραπάλη ἀπὸ προτεραίας καὶ χθιζῆς οἰνοποσίας, "Surfeiting is the product of yesterday's debauchery:" and since the effect is also forbidden, he that chooses it by delighting in the cause, chooses also what is forbidden, and therefore that which will be imputed to him. But this I have largely proved[m] upon a distinct account, by making it appear that even a vicious habit, the facility and promptness to a sin, are an aversion from God, and make us hateful by a malignity distinct from that, which is inherent in all the single actions. Thus he sins, that swears by custom, though he have no advertency to what he says, and knows nothing of it: he chose those actions, which introduced the habit, and he can derive no impunity from his first crime: and he that is the greatest sinner, can never come to that state of things, that he shall take God's name in vain, and yet be held guiltless.

2. But this rule is to be understood with these cautions.

The involuntary effect is imputed to the voluntary cause, if that effect was foreseen, or if it was designed, though when it be acted, the foolish man knows but little of it, no more than a beast does his own acts of pleasure, which he perceives by sense, but does not by counsel enter into it. Of this there

[l] Luke, xxi. 34. [m] Unum Necessar. cap. 5.

is no question, because he put his hand to a hook of iron, and that being fastened upon the rich vessels in the house draws forth what the man, it may be, knows not to be there; but his hand willingly moved the iron hook, and therefore his hand and his will are the thief.

3. The involuntary effect is not imputed to the voluntary cause, if, after it is chosen by the will, in one act, it is revoked by another, before the mischief be effected. Thus if Mævius shot an arrow to kill Paternus, and in the instant of its egression 'nollet factum,' 'repents of the intended evil,' that mischief which is then done, shall not be imputed to him. This indeed is generally said both by the divines and lawyers; but it hath no effect at all that is material and considerable, save only this, that the repentance does wash away the guilt; but in true speaking, the whole guilt was contracted, because the act of the will was completed up to action and execution, beyond which there can be no intension of the evil; but then the effect is therefore not imputed, because the cause also is pardoned by the means of repentance, and so it is even after the mischief is done. He that by repentance recalls the mischief, shall, by pardon, be cleared from guiltiness, whether that repentance be before or after.

4. But that which we can rely upon in this particular, and of which great use is to be made, is this,—that though all the evil events which are foreseen, or ought to have been considered, are imputed even then, when they are not in our power, to him who willingly brought in the cause of those evils; yet whatsoever was not foreseen, and therefore not designed, nor yet chosen, by consequence and implication is not imputed to him, that brought that foolish necessity upon himself. Consonant to this is the doctrine of St. Austin[n]; "Culpandus est Loth, non quantum incestus in ebrietate admissus, sed quantum ebrietas meretur;" "Lot was answerable for his drunkenness, but not for his incest caused by his drunkenness," which he foresaw not and designed not. But this case also suffers alteration. For if Lot had been warned of the evils of his first night's drunkenness, and yet would be drunk the next night, he is not so innocent of the effect,—the incest lies nearer to him. Only if after that monition he suspected as little as at first, he was not indeed

[n] Lib. 22. contr. Faust. cap. 44.

guilty of the incest directly, but of a more intolerable drunkenness and a careless spirit, who by the first sad event did not consider, and was not affrighted from the intolerable cause. But thus if a servant throws himself into a pit, and breaks a leg or an arm that he might not work, his not working is as much imputed to him as uncharitable injury to himself: but if afterwards (as Pyrrho did) he see his master falling into a ditch, and, by reason of that first fall, he cannot help his master out, that is not to be imputed to him; for he willed it not, it was not included virtually in any act of his will or understanding. And thus it is also in the divine judgments, which if we procure by our own vilenesses, all that impotency and disability of obeying God in external religion, which is consequent to the suffering that judgment which himself procured, and by which he is fallen sick or mad or lame, is not imputed to him; because to make himself guilty of a thing, it is not sufficient that he be the meritorious cause of that which procured it, but he must be the voluntary and discerning cause. That evil of which a man is only the meritorious cause, depends upon another will besides his own, and is indeed an effect deserved by him, but not willingly consented to, but very much against him; and therefore can never be imputed to him to any other purpose, but to upbraid his infelicity, who justly suffers what he would not foresee, and now cannot avoid.

5. When a man falls into a state or condition, in which he cannot choose,—those acts which are done in that state, are imputed to him, if they be such acts, to which no new consent is required, but that it be sufficient that he do not dissent; and if those acts be consonant to his former will, all such effects are imputed to the will. Thus if Titius, being a catechumen, desired to be baptized, and then falls into madness, or stupidity, or a lethargy, he is capable of being baptized, because nothing is in some persons required but a mere susceptibility, and that there be no just impediment; the grace of the sacrament being so mere a favour, that it is the first grace to which nothing on our parts be previous, but that all impediments be removed. Since therefore in this a man is passive, his present indisposition of making new acts of election renders him not incapable of receiving a favour; always provided that there was in him no indisposition and

impediment before his present accident, but that he did desire it and was capable before: that volition hath the same effect in the present state of madness or stupidity as it could have, if it had been well. But when this comes to be reduced to practice, I know of no material change it works upon the man, in case he dies in that sad affliction, but what was, by the mercies of God, laid up for him upon the account of his own goodness and the man's former desire. But if he does live, that susception of the sacrament of baptism is sufficient for him for his whole life, and the days of his recovery; that is, all that which he could be bound to in the susception, is performed effectively in that state, in which he could not presently choose. But I shall resume this consideration and inquiry upon occasion of something to be explicated in the sixth rule of this chapter.

6. But, in matter of punishment, the case is something different. The case is this; Mizaldus a Florentine, smote an officer of the great Duke in the court, and apprehending that he was in great danger of suffering a great punishment, grew sad, and impatient, and at last distracted: the question upon the case is,—

Whether or no Mizaldus may, being mad, be punished by death, or the abscission of his hand, for a fact he did in his health and the days of understanding. To this the answers are various by reason of the several cases that may arise.

7. If the punishment cannot be inflicted without legal process, trial, conviction, and sentence, the madman cannot be punished, because he is not capable of passing through the solemnities of law: but if the sentence was passed before his madness, then the evil may be inflicted, that is, it is just if it be; and it may be done unless some other consideration interpose to hinder it.

8. In punishments where no judicial process is required, a man that is mad, may be punished for what he did when he was sober. If a son strikes his father, and then falls mad, the father may disinherit him for all his madness, because the father may proceed summarily and upon sense of the crime; and he that by his own voluntary act did deserve it, is not by madness made incapable of the punishment, to which, in this case, nothing but a passiveness is required[o].

[o] Bertol. in lib. ex facto in princip. ff. de Vulg. et Pupilla substit.

9. This also holds in cases of punishments 'ipso facto' incurred, that is, which a man is fallen into, as soon as ever the crime is committed. And of this there is a double reason; the one is, because the punishment is actually incurred before he is actually mad, for the very crime itself is to him as a judge and sentence, and the sanction of the law is all the solemnity: and that is the other reason, consequent to the former; in this case there needs no process, and therefore the sinner's indisposition cannot make him incapable of passing into punishment.

10. In punishments emendatory, that is, such which, besides the exemplar justice, intend to reform the criminal, he that is fallen into madness, ought not to suffer them, whether the sentence be to be passed by the law or by the judge, whether it be solemn or summary, whether it be passed before his calamity or after. The reason of this is plain, because such punishments being in order to an end which cannot be acquired, are wholly to no purpose, and therefore are tyrannical and unreasonable; the man is not capable of amendment, and therefore not of such punishments, which are emendatory.

11. But after all this, the moderation of charity in Christian judicatories is such as that they refuse to inflict corporal penalties on distracted people, it being enough that they are already but too miserable.

> Solus te jam præstare potest
> Furor insontem: proxima puris
> Sors est manibus, nescire nefas [p].

He that knows not what he does, or what he hath done, is next to him that is innocent. And when the man is civilly dead, it is to little purpose to make him sink further under the civil sword. That is a dreadful justice and security, that would kill a man twice over. Only when any thing of example, or public interest, or detestation of the fact, is concerned, it may be done according to the former measures, and for the present considerations; just as it is in some cases lawful to punish a man after he is dead, by denying him an honourable and Christian sepulture: where although there be something particular in this case, the nature of this punishment being such, that because we do not bury them be-

[p] Senec. Herc. Fur. act. iv. 1096. Schröder, pag. 83.

fore they be dead, this evil must be inflicted upon him that feels it not, or not at all be inflicted; yet indeed it is true, that it ought not at all to be inflicted upon any direct account of justice, but upon collateral considerations, as for terror and exemplarity; and so it may be in the case of the present question.

Sect. 2. *Of the Diminutions of voluntary Actions: and first of Ignorance and its Influence into the Morality of human Actions.*

RULE V.

Nothing is good or bad, but what we know, or concerning which we can deliberate.

1. The great measures of morality are, 'Choose the good, and eschew the evil:' before these can be chosen or avoided, they must be considered and discerned. And therefore those things concerning which there can be no deliberation, are neither morally good nor bad,—and those persons who cannot deliberate, can neither be virtuous nor vicious; but the things may be lawful, and the persons be innocent, but both of them negatively, that is, the things are not evil, and the persons are not criminal. And therefore St. Paul[1] celebrating the immense love of God to mankind, says, that "God would have all men to be saved;" and in order to this, he adds, he would have all men "come to the knowledge of the truth," as knowing this to be the only way: no man can be saved unless he knows saving truth, but every man may be saved unless it be his own fault; and therefore there is to every man revealed so much truth as is sufficient to his salvation. It may be, this saving truth is revealed by degrees; and so that he who hath the first general propositions of nature and reason, and uses them well, shall have more, even so much as is necessary until he comes to all-sufficient knowledge. "He that comes to God (saith St. Paul) must believe that God is, and that he is a rewarder of them that diligently seek him." This is the gentiles' creed, but such as at first will be sufficient to bring them unto God; whither when they are

[1] 1 Tim. iv.

come, he will give them his Holy Spirit, and teach them whatsoever is yet necessary. I am not here to dispute what is likely to be the condition of heathens in the other world: it concerns not us, it is not a case of conscience: but we are sure that all men have the law of God written in their hearts; that God is so manifested in the creatures, and so communicates himself to mankind in benefits and blessings, that no man hath just cause to say he knows not God. We see also that the heathens are not fools, that they understand arts and sciences, that they discourse rarely well of the works of God, of good and evil, of punishment and reward: and it were strange that it should be impossible for them to know what is necessary, and stranger yet that God should exact that of them, which is not possible for them to know. But yet on the other side, we see infinite numbers of Christians that know very little of God, and very many for whom there is no course taken that they should know him; and what shall be the event of these things, is hard to tell. But it is very certain that without a man's own fault, no man shall eternally perish: and therefore it is also certain that every man that will use what diligence he can and ought in his circumstances, he shall know all that in his circumstances is necessary; and therefore Justin Martyr said well, "Voluntate ignorare illos, qui res ad cognitionem ducentes habent, nec de scientia laborant." Every man hath enough of knowledge to make him good if he please: and it is infinitely culpable and criminal, that men, by their industry, shall become so wise in the affairs of the world, and so ignorant in that which is their eternal interest; it is because they love it not.

Non aurum in viridi quæritis arbore,
Nec vite gemmas carpitis,
Non altis laqueos montibus abditis,
Ut pisce ditetis dapes[r].

No man looks for emeralds in a tree, nor cuts his vines hoping that they will bleed rubies, or weep pearls. Which of all the heathens or Christians ever went to take goats in the Tyrrhene waters, or looked for crystal in a furnace? Many know what pits have the best oysters, and where the fattest tortoise feeds:

[r] Boeth. lib. 3. de Consol. Philos.

Sed quonam lateat quod cupiunt bonum,
Nescire cæci sustinent:
Et quod stelliferum trans abiit polum,
Tellure demersi petant:

and yet they look for immortality in money, and dig deep into the earth, hoping there to find that blessedness, which, their reason tells them, dwells beyond the stars. Men have enough of reason and law put into their hearts, by which they read the will of God; and therefore no man can, in the universal lines and measures of salvation, pretend ignorance: I am sure we cannot, and that is all that concerns us. And therefore ignorance, in the law of God, in that which concerns our necessary duty, is so far from excusing any thing it causes, that itself is very criminal. "Non est levius omnino nescire quod liceat, quam facere aliquid quod scias non licere [s];" 'To do some things that we know to be unlawful, is not so great a crime, as to be wholly ignorant of what is and what is not lawful.' So that since the great end why God hath given us liberty and election, reason and understanding, is that by these we should serve him and partake of his felicities, it follows that in all that is of necessity to our salvation God is not wanting to give us sufficient notice; and of good and evil in general, every man, that hath the use of reason, does or may understand the rules and differences.

2. But if we descend to particular rules and laws, the case is different. St. Gregory Nyssen [t] said, "Universalium secundum electionem non esse involuntariam ignorantiam, sed particularium;" "A man cannot against his will be ignorant of the universal precepts, that concern our life eternal and election,—but of particulars a man may."—That a man must not oppress his brother by cruel or crafty bargains, every man ought to know: but there are many that do not know whether all usury be a cruelty or oppression, or, in any sense, criminal. But, concerning these things, we may better take an estimate by the following measures.

Of what Things a Man may, or may not, be innocently ignorant.

3. No man can be innocently ignorant of that which all the nations of the world have ever believed and publicly professed; as, that there is a God;—that God is good, and just,

[s] Seneca. [t] Lib. 5. de Philosoph. cap. 2.

and true;—that he is to be worshipped;—that we must do no more wrong than we are willing to receive or suffer.—Because these things and the like are so conveyed to us in our creation, that we know them without an external teacher; and yet they are so every where taught, that we cannot but know them, if we never consulted with our natural reason.

4. No Christian can be innocently ignorant of that, which the catholic church teaches to be necessary to salvation. The reason of this is, because every one that knows any thing of God, and of heaven and hell, as every Christian is supposed to do,—cannot but know it is necessary he learn something or other in order to it; and if any thing, then certainly that which is necessary: and of that, nothing can so well judge, nothing can teach so readily, as the whole church; for if the whole church teaches it as necessary, then it is taught every where, and at all times, and therefore to be ignorant of such things can never be supposed innocent.

5. Of that, which is by several churches and societies of wise and good men disputed, a man may be innocently ignorant; for there is supposed difficulty, and obscurity, and every degree of these is the greatest indication that there is not of them any absolute necessity. What God hath made necessary to be known, he hath given sufficient means by which it can be known. But because every man cannot dispute, and of them that can, very many do it to very little purpose, and they had better let it alone, and by disputing men often make more intrigues, but seldom more manifestations of what is obscure; it is certain that which cannot be known but with some difficulty and more uncertainty, may be unknown with very much innocence.

6. Those things which do not concern good life, and the necessities of this world and of the other, are not of necessity to be known by every one; because there is, beyond these, no common and universal necessity. But beyond these,

7. Whatsoever concerns every man's duty in special, to which he is specially obliged, of that he cannot be innocently ignorant, because he hath brought upon himself a special obligation of a new duty, to which he must take care that sufficient aids and notices be procured. Thus must a bishop understand not only the articles of faith, but the rules of manners, not only for himself, but for those which are under

his charge; he must be able to instruct others in the mysteries of religion, and to convince the gainsayers; that is, he must have knowledge sufficient to do what God requires of him, and what himself hath undertaken. But then as there is in the duty of every Christian, so there is in the charge of every office, some things that are primely necessary, some things that are only useful, and some for ornament, and some for excellency and perfection. So that as of every Christian so much knowledge is required, that he be not ignorant of what is necessary for his great calling, but of other things less necessary there is less knowledge required; so it is in every special calling. For although a bishop must know how to teach sound doctrine, and to reprove evil manners; and if he knows not these things, his ignorance is criminal; yet a bishop may be innocent and laudable, though he be not so learned as St. Gregory Nyssen. Valerius, the bishop of Hippo, was a good man and a good bishop, yet he was not so instructed and able as his successor St. Austin; and Nectarius, of Constantinople, was accounted a good patriarch, yet he was very far short of St. Chrysostom. Of what is more than of simple necessity, some may be innocently ignorant, but yet very few are. Because God hath not confined his providence and his Spirit to the ministry only of what is merely and indispensably necessary: and therefore when God hath largely dispensed and opened the treasures of his wisdom and heavenly notices, we should do well not to content ourselves with so much only as will keep us from perishing. Therefore that the conscience may be directed how far its obligation of inquiry does extend, and may be at peace when it inquires wisely whether the duty be done, these are the best measures whereby we can take account.

What Diligence is necessary that our Ignorance may be innocent.

8. Our inquiry after things necessary must have no abatement or diminution, nothing less than that it be so great and diligent as that the work be done. Because whatsoever is necessary is sufficiently communicated, and without that we cannot do our duty, or receive the felicity designed for us; and in that where God's part is done, if the event answer not, it is because we have not done our part, and then we are not

innocent. So that, in these inquiries, we are no otherwise to make a judgment of our diligence than by the event: whatsoever is less than that, is less than duty.

9. But in things not absolutely necessary, such which are of conveniency and ornament, of advantage and perfection, it is certain we are not tied to all diligence that is naturally possible: and the reason is, because these things are not simply necessary, and therefore not of necessity to be acquired by all means. Add to this, if a man were bound to use all diligence to acquire all notices, that can be useful to him in his general or in his special calling, he should fall under a perpetual rack of conscience. For considering that a man's life were not sufficient to do this in some callings, and it is necessary in this world that a man do many things more than the works of his office, he could never be suffered to attend to any necessity, but what is mere and indispensable and indivisible, and never use any divertisement, recreation, variety, or ease, but he must first be tied upon the wheel, and feel the pains of a doubting and tormenting conscience, by reason of the impossibility of knowing whether we have done all that we can.

10. In acquiring notices concerning doing any work with advantages, a moral diligence is necessary: for he that stops at the gate of simple necessity, hath some love to himself, and great dread of God, but no love to him; for love cannot consist with a resolution of knowing no more than we must needs; to get so much and no more will well enough serve the ends and the design of fear, but not of love: and therefore although the man that does so is innocent so long as he is in that state, and as long as that state is acceptable; yet because the state of fear is but the state of infancy and imperfection, it must proceed further, or be imperfect for ever; that state will not be accepted long. For if a man does his duty in that state, he shall be enabled to go further; and then he must, or else he sins by despising the Spirit of grace. But if he does not do his duty in the first state, then he must not, in that state of carelessness and neglect of using moral diligence, pretend that he is innocent. A man that hath been blessed in his first attempts, must still follow the method and economy of the divine Spirit; that is, as God increases in aids, so the man must increase in diligence and labour, and

must use what means are before him to do still better and better.

11. In acquiring notices not simply necessary, a moral diligence is sufficient. This is an immediate consequent of the second rule, and therefore needs no particular confirmation, but explication rather.

Therefore by moral diligence is to be understood, such a diligence in acquiring notices, as can, 1. consist with our other affairs, and the requisites of our calling and necessities; 2. such as is usual by ourselves in the obtaining things which we value; 3. such which is allowed by wise men, such which a spiritual guide will approve; 4. and such as we ourselves do perceive to be the effects of a real desire. For there ought to be nothing of the scruple or vexation in the acts of this diligence, nor in the inquiries concerning it. And therefore if we are sure we desire to know what we can, and do towards it such-like things as we do in the purchase of other things which we greatly value, we may be at peace. For this thing does not consist in an indivisible point, it is not just thus much, neither more nor less; but it is more or less according as our love is and our leisure, our opportunities and abilities: and if we cannot judge concerning ourselves so well as to rest in peace, let us ask a spiritual guide, having first declared to him the narrative of our life and actions whereby he shall be enabled to make a judgment.

What is a probable Ignorance?

12. Upon this account we can also give the measures and definitions of a probable ignorance, that is, such an ignorance which is next to an invincible or an irremediable ignorance: this the schools call 'probable.' For as the invincible ignorance is a mere nescience, and is either of such things which we are not bound to know, because God requires them of no man; or of such things which we cannot know, because we never heard of them, and are not taught sufficiently, and so God will not require them of us: so next to this stands the probable ignorance, that is, when the things are propounded to be known, and can be known if we would use all our natural and possible diligence; but yet because God hath not placed them in a necessary order to salvation, he hath not tied us to use all our natural diligence, but some diligence he does require, which

when we have used, and yet miss, the ignorance is probable. Now when that is so, we shall learn by the proportions to the description of the parts and requisites of a moral diligence, and by these following measures.

13. Then our ignorance is probable, when we enter upon the action without temerity, and yet without doubt or trepidation; that is, when our address is with consideration, but we find no reluctancy against the action, nor remorse after it. For then it must be that we have faith, and do it with a good mind, not against our conscience; and yet having no fierceness of passion or fancy, and a mind wary enough to discern any objection that is near, it will be very probable that there is none at all but what stands a great way off, and therefore far enough from disturbing the innocence of the action.

14. But this is to be understood only in the ordinary accidents and traverses of our lives. But if it be in matters of great concernment, such as are above our ordinary employments, as if it be in the actions and duties of an eminent office, it is not sufficient that we have no regret or remorse, but we must have an actual consideration, a plain perceived deliberation and counsel, and then no regret. It is not here enough that we have nothing against it, but we must have something for it, because in such persons and in such accidents the process ought to be more than ordinary; that as there are greater abilities required to the performance of that office, so there may be a proper use and exercise of those abilities. And there is in this a great evidence of truth. For in ordinary things, it is very often so that they are well enough if they have not evidently any evil in them. But in the actions of public employments things are not so indifferent; they do hurt, unless they do good,—they are scandalous, if they be suspicious; they are designed always to do benefit, and if they do not, they cannot be justified, and therefore they must be looked on with an actual consideration: in which state of things it is certain that every thing will occur that is obvious to be considered; and what is not obvious to such persons, is indeed very difficult, and may well be supposed to leave a probable and very excusable ignorance.

15. This also is to be extended to the case of confident

asseverations, and confirming any proposition with an oath, in which no man can have a probable ignorance, but he that hath used a diligence of inquiry so great as to give confidence great enough to an oath, which must be of a thing so sure that nothing can be a cause of doubt, unless some secret and undiscerned thing, to which a great and proportionable diligence hath not arrived and made discovery, do accidentally intervene. No man must swear a thing is so, and yet at last say, "I did 'bona fide' suppose it so:" but 'I examined it, I searched as well as I could, I entered into all the corners of it, I had great reasons to believe, I had fair assurances it was so, and I every day am assured of many things, of which I had less testimony.' If beyond this any thing escapes him, the ignorance is probable and excusable. But the rule is the same as at first: he is sufficiently and innocently confident, who hath no distrust, and upon inquiry finds no cause of distrust, always provided that the inquiry be in proportion to the dignity, and difficulty, and duty of the occasion and subject-matter.

16. By the use of these premises it will be easy to determine Plato's[u] case of conscience, which he propounded to Hippias the sophister. Whether is the better or worse, he that sins willingly, or he that sins by folly and ignorance? of them that wrestle, whether is the more inglorious, he that falls willingly, or he that is thrown in despite of himself and all his strength? whether foot is better, that which halts upon design, or that which halts with lameness? whether were it better for a man to have a fool or a knave to his servant?—but this discourse of Plato concerns arts only and sciences. But Hippias answered well, it was not so in virtues; the differences of which Plato did not seem to discern, but Aristotle[x] afterward very well explicated. The sense of which, in order to the purpose of the present rule, is well expressed by Seneca[y]; "Vis scire quam dissimilis est aliarum artium cognitio et hujus? In illis, excusatius est voluntate peccare quam [casu] ignorantia: in hac, maxima culpa est, sponte delinquere." If a grammarian speaks a solecism on purpose, he blushes not; but if ignorantly, he hath reason to be ashamed. If the physician knows not what his patient ails, it is more shame to him, than if he on purpose names a wrong disease. "At in

[u] Lib. de Mendacio. [x] Lib. 6. Ethic. cap. 5. [y] Epist. 98.

hac parte vivendi, turpior volentium culpa est:" "But in manners to err willingly is the more intolerable."—The reason of these things is plain, which, who please, may read in Gifanius [a] the interpreter of Aristotle, and Marsilius Ficinus [a] the expositor of Plato: for indeed, it is evident, that to moral actions the rectitude of the appetite is required, and so to arts and sciences and the virtues intellectual. It is enough to art that the work be well done, though with what mind it matters not as to that: and when the Italian painter, who, was to depict a crucifix, hired a slave to be tied to a cross, that he might lively represent a body so hanging and so extended, did afterward stab him to the heart, that he might see and perceive every posture, and accent, and little convulsion of a dying man, he was very much the worse man for it, but no whit the worse painter; as appeared by the incomparable excellency of that piece; and the principles of art cannot be corrupted with the evil manners of the man; but because evil desires pollute the manners, the will is to be taken care of, as the principle of all morality. To which we may add, that he, who, in arts, errs willingly, can mend it when he please; but so cannot he, that errs ignorantly. Ignorance is the only disparagement of his art, and malice is the only disparagement of our manners.

17. But this, though disputed to little purpose amongst the philosophers, may be of good use in cases of conscience. Cardinal Campegius [b], having wickedly said to the senate at Norimberg, that 'it was worse for a priest to marry than to fornicate,' offered in justification of it a reason that could less be justified: 'For (saith he) the priest that fornicates, knows he does amiss, and therefore may in time repent; but the priest that marries, thinks he does well, and therefore will never change his mind, he will never repent.' It is true, he needs not, because he believes he does well; and he is not deceived. But suppose he were deceived, and abused by error, what man before him was ever so impious as to say that he, that knows he does evil, is in a better condition than he that errs with a good mind, and supposes he does very well? for the present, the state is infinitely different: and for the time to come, which is the more likely to obtain mercy, he that does a thing ignorantly, or he that does it maliciously;

[a] In lib. 6. Eth. cap. 5. [a] In Hippia minor. [b] Sleidan. lib. 4.

we shall not need to appeal any whither but to all the notices of virtue and vice which are in mankind.

18. Indeed, there are some sins of ignorance, that is, such which are subjected in the understanding, which are worse than some sins of malice, or such which are subjected wholly in the will and the faculties which obey it. Thus to be ignorant of the fundamental articles of faith, is a worse state of things than to have committed an act of gluttony, or to have entertained a wanton thought, or to have omitted divine service upon a festival. The Jews had an opinion that thoughts were free, and God did not require them of us with severity; but a thought against faith, that was highly criminal. "Cogitationem pravam Deus non habet vice facti, nisi concepta fuerit in Dei fidem atque religionem," said R. David Kimchi[c]; meaning, that 'no sin was greater than heresy, or an error in faith.' But the reason of this is, not only because the effect of heresy is, like the plague, infectious and disseminative; but because by how much the articles of faith are more necessary to be believed, by so much is the ignorance of them more criminal, and more voluntary, and therefore less excusable. But even in matters of faith, where there is less of malice or wilful negligence ingredient into the ignorance of them, there the crime is less than any thing else, be the instance what it will. But this will be more explicit in the sequel.

RULE VI.

Ignorance does always excuse the Fact, or diminish the Malignity of it, or change the Kind and Nature of the Sin.

1. IGNORANCE, according to its several capacities, and the several methods of art and ways of speaking, hath several divisions. But all are reducible to this in order to conscience. Ignorance is either voluntary or involuntary. It is vincible or invincible, that is, it can be helped or it cannot. It is the cause of the action, or it only goes along with it. And of these several ignorances there are many degrees, but no more kinds that are here fit to be considered.

[c] In Psal. lxvi. 18.

2. The first sort of ignorance, which is involuntary, invincible, and antecedent, that is, is the cause of an action,—so that the thing would not be done but by that ignorance,—does certainly make the action also itself involuntary, and consequently not criminal. In this sense is that of the law[d]: "Errantis nulla voluntas, nullus consensus;" "They that know not nothing of it, consent not."—This is meant of ignorance that is involuntary in all regards, that is, such as is neither chosen directly nor indirectly, but is involuntary both in the effect and in the cause. Thus what fools and madmen and infants do, is not at all imputed to them, because they have no understanding to discern good from evil; and therefore their appetite is not depraved or malicious, which part soever they take. Ἐπεὶ γὰρ ἀπὸ διαθέσεως ἡ ὕβρις συνίσταται, ἀκόλουθως λέγομεν τὸν μαινόμενον, καὶ τὸν νήπιον, εἰ καὶ ὠθήσουσί τινα, ἢ διὰ λόγων ὑβρίσουσι, μὴ κατέχεσθαι, διότι οὐ δοκοῦσι διάθεσιν ἔχειν ὑβριζόντων μὴ αἰσθανόμενοι, saith the law[e], according to the interpretation of the Greeks: "Injury proceeds from the affection; and consequently we say, that a madman or an infant, if they strike or reproach any one, they are not criminal, they have done no injury because they perceived it not."—"Nec reputantur infantiæ anni qui sensu carent," saith Pliny; "The years of infancy come not under the notice of laws and judges, of right or wrong, for they have no reason," that is, they use none. So Galen[f]: Τὸ μὲν δὲ μὴ χρῆσθαι λογισμῷ μήτε τὰ θηρία, μήτε τὰ βρέφη, καὶ περὶ τῶν πρὸς τὸν Χρύσιππον ὡμολόγηται, "All the scholars of Chrysippus constantly affirm, that beasts and babes have no use of reason[g]." And Jamblichus supposed, that the rational soul was not infused into children before the tenth year of their age. But that is more reasonable which almost all wise men (excepting the Stoics affirm, and is thus expressed by Gregory Nyssen[h], and his contemporary Nemesius[i] in the very same words; Εἰ γὰρ καὶ κομιδῇ νέοις οὖσι τοῖς βρέφεσιν ἡ ἄλογος μόνη κίνησις πρόσεστιν, ἀλλὰ ψυχὴν λογικὴν φαμεν ἔχειν αὐτὰ, ἐπειδήπερ αὐξανόμενα καὶ τὴν λογικὴν ἀναδείκνυσιν ἐνέργειαν, "Although in infants there is no action or motion of

[d] Lib. 9. ff. de Jur. et Fact. Ignor. et lib. 30. ff. de Aqua et Aquæ Pluvi.
[e] Lib. 3. sect. 2. ff. de Injur.
[f] De Hippocrat. et Platon. Placit.
[g] Apud Stobæum in Physicis Eclogis.
[h] De Anima. [i] De Nat. Hom. cap. 2.

reason, yet we say that they have a reasonable soul; for they manifest the use of it, when they are growing up.

3. But this occasions a difficulty in this subject. For we see the rational soul exercising its operations in some, sooner, —in some, later; and as the body grows in strength and grandeur, so does the soul in the use of reason and powers of deliberation and choice.

> Nam velut infirmo pueri teneroque vagantur
> Corpore, sic animi sequitur sententia tenuis:
> Inde, ubi robustéis adolèvit viribus ætas,
> Consilium quoque majus, et auctior est animi vis[k].

And Hippocrates adds that the soul does grow; ἀνθρώπου ψυχὴ ἀεὶ φύεται ἄχρι θανάτου, "A man's soul is born every day of a man's life," it always receives some increment. Now the question is,

4. How long shall infant ignorance or childishness excuse so far, as that the actions they do, shall be reckoned neither to virtue nor to vice?

To this it will not be possible to give a strict and definite answer, but a rule and a measure may be given. Posidonius said, Μικρὸν μὲν τὰ πρῶτα καὶ ἀσθενὲς ὑπάρχειν τοῦτο [λογιστικὸν], μέγα δὲ καὶ ἰσχυρὸν ἀποτελεῖσθαι περὶ τὴν τεσσαρεσκαιδεκαετῆ ἡλικίαν, "The rational faculty is at first very weak, but it is great and strong about the age of fourteen years;" and Plutarch[l] says that the Stoics affirmed ἄρχεσθαι τελειότητος περὶ τὴν δευτέραν ἑβδομάδα, "about the second septenary, or the fourteenth year, they begin to be perfect:"—but Zeno[k] said that from that year complete, τελειοῦται "it is perfect," that is, as to all capacities of reward and punishment. But in this there was great variety. For some laws would punish boys after twelve years, not before: so the Salic[l] law: "Si quis puer infra duodecim annos aliquam culpam commiserit, fredum ei non requiratur;" "A boy before he is twelve years old, committing a fault is not tied to make amends or composition." Servius upon that of Virgil[m],

> Alter ab undecimo tum me jam ceperat annus,

says "the thirteenth year is meant, because that was next to puberty; for (says he) the law judges of maturity not only

[k] Lucret. lib. 3. 448. Eichstadt, pag. 116.
[k] Diog. Laert. in Zenone.
[l] De Placit. Philos. 5. cap. 24.
[l] Tit. 26.
[m] In 8. Eclog. Virgil.

by years, but by the habit and strength of the body." But though this be less by one year than that of the Stoical account, and more by one year than that of the Salic law; yet we find in the law of the Greeks and Romans, that after seven years complete, boys were punishable: so the Basilica[n], Michael Attaliotes[o], and some others.

5. But this variety was not only arbitrary, but it was commonly established upon reason; for the differences were made by the different nature of the crimes, of which boys were not equally capable in every year: but although, in every crime, some were forwarder than others, yet all were capable of some sooner than of others. Spite and malice come sooner than lust: and therefore, if a boy, after seven years old, killed a man, he was liable to the 'lex Cornelia de sicariis;' but not so if he were a pathic, and a correspondent in unnatural lusts, as appears in Matthæus Blastares and Leo: if he were under twelve years, he had impunity, "quum ætas ipsa argumento sit, nescire eum quid patiatur," said the emperor[p]; "his age is an argument of his ignorance, that he knows not what he suffers." For in these things it was reasonable that Galen said of Hippocrates, Νήπια λέγει τὰ μέχρι ἥβης, "Infancy is to be reckoned until youth," or a power of generation: and that was it which I observed before out of Servius; "Bene cum annis jungit habitum corporis: nam et in jure pubertas ex utroque colligitur." The strength of body must be supposed before you allow them strength of reason, that is, a power to deliberate and choose those sins, to which they cannot be tempted before they have natural capacities. But this, I say, relates only to the crime of uncleanness. Now because this was commonly the first of our youthful sins, malice in infancy being prodigious and unnatural, which caused that advice of St. Paul, "In malice be children;" therefore wise men and the laws did usually reckon that age to be the first beginning of their choice, as well as of their strength. But this rule is very far from being certain, and therefore St. Austin[q] blames those, that do not impute any sins to boys before the age of fourteen; "Merito crederemus (saith he), si nulla essent peccata, nisi quæ

[n] Lib. 60. tit. 39. [o] Tit. 71.
[p] Vide Βασιλικ. ubi supra in Epit. lege tit. ult. num. 21.
[q] Lib. 10. de Genes. ad Liter. cap. 13.

membris genitalibus admittuntur;" "We might well do so, if there were no sins, but the sins of lust:" but they can steal sooner, and they can lie, and, as unnatural and as unusual as it is, they can be malicious, some sooner, some later, according to the baseness of their disposition, their pregnancy, and education. A. Gellius[r] tells, that the decemviri, who wrote the laws of the Twelve Tables, "ex cæteris manifestis furibus liberos verberari, addicique jusserunt ei cui factum furtum esset," "they caused thieving boys to be whipped and given up to them from whom they had stolen;" and if they cut corn by night and stole it, they were to be chastised by the discretion of the prætor; which also Pliny notes. But then this also is to be added, that even in these things although they did not esteem them innocent, yet because their understanding was but little, and their choice proportionable, they inflicted but easy punishments; which Theophanes[s] expressed by δι' ἁβηνῶν μαστιγῶσαι, they were "beaten with thongs, or rods, or ferulas."

6. From hence we may take an estimate, how it is in this affair, as to the question and relation of conscience. For then these wise men and wise lawgivers, did declare them punishable, when they did suppose them criminal; though in the sanction of laws they were to proceed by rule, and determine ὡς ἐπὶ τὸ πολὺ, 'as things were most commonly.'—But then it is to be considered, that since they, being to make a rule, could not at all take in extraordinaries, and there would many particulars and hasty instances be passed, before it could come to a just measure and regular establishment, we must therefore proceed something otherwise in the court of conscience. For, as Libanius[t], speaking concerning boys, said, τοῦτο δέ ἐστι τοὔνομα τῆς οὐ πάντα ἀναμαρτήτου καὶ πόῤῥω μέμψεως ἡλικίας, "this is not a name of age, that cannot sin and cannot be punished." But Anastasius Sinaita[x] says, that 'sometimes God imputes sins to boys from twelve years old and upwards.'—But St. Austin[y] confessed the sins of his first years, the peevishness of his infancy, his wrangling with his nurses, his very envying for the nurse's milk and fondnesses; this was indeed a greater piety than reason.

[r] Lib. 11. cap. 18. [s] Lib. 18. cap. 3.
[t] Lib. 1. sect. Impuberi, ff. de Senat. Silan. Habena.
[u] Declamat. 21. [x] Quæst. 84. [y] Epist. 57.

But when he was a boy, and robbed an orchard, he had reason then to be troubed for it. The sins of children are but little, but they are sins. "Puerorum sensus in qualiacunque verba prorumpens, qui certe ad ea, quæ majores sapiunt, pene nullus est:" When boys give evil words, it is almost nothing. But because it is but almost and comparatively nothing, it is of itself and absolutely something; and we know not at what period of time any child first comes to the use of reason; and, therefore, neither can we tell when God will impute their follies; and when he does not impute their follies to damnation, it may be, he will impute them so far as to cause a sickness or an immature and a hasty death. And therefore parents and tutors can never discharge their duty, but by a coercion and strict restraint of children, from the very first beginning of their being capable of laws, of the laws I mean of their parents, and even, before that, to restrain them from the material parts of any evil, even from evil words, which they understand not. For when they once have learnt the sound, they will quickly perceive the sense: and although we account their infant malices, pretty and sportive, yet because we know not from what an early principle they come, nor how soon God will impute them, nor whither they will tend, nor what impression they leave, we should betimes exercise our legislative; and it is God's great mercy to children that they can understand fear as soon as they can learn to sin, that their evil company and evil inclinations may not prevent the discipline of the parents, but that God and the good things of his law may get the first possession. And he that will let his children alone till they have φρόνημα στατηρὸν, "animum consilio ac ratione firmatum[z]," "a fixed and settled judgment," shall find evil habits fixed and permanent, as the foot of a rock, and that good counsel will be too late, too easy a remedy. The sum is this; So long as they are ignorant, that is, so ignorant, that they know not how to deliberate sufficiently to avoid a sin,—so long their evil is not imputed; but, together with their reason, begins their virtue or their vice.

7. The second sort of ignorance is concomitant, that is, such which is really and actually conjoined with the cause of the action, but itself is not the cause; for if the man were

[z] Cicer. pro Cluent. cap. 5. n. 13. Priestley's Cicero, vol. 2. pag. 562.

not ignorant, he would do the thing nevertheless. Thus the boy that flung a stone at a bird, and hit his cruel step-mother whom he knew not to be there, said he did not then design it, but the stone was well thrown. He that shoots an arrow at a stag, and hits his enemy whom he resolved to kill when he could well do it, but knew not at all that he was in the bush,—hath an ignorance and a malice at the same time; and here the question is which prevails, the ignorance to excuse, or the malice to condemn. To this I answer, that the ignorance excuses that action, but not that man. He is not a murderer in that shooting, nor in the counsels and deliberation of that action; but for his mind and his malice distinct from that action, he is proportionably guilty. But if the man have no malice to the unfortunate man that is killed, then he is entirely innocent, if his ignorance be innocent. The mind of the man is, and the action is; and if the ignorance were invincible and irremediable, then there is innocence on all parts. "Non consentiunt qui errant," saith the law [a]. For there is in this concomitant ignorance the same reason as in the antecedent, so far as relates to that event, though not as to that action; the action was indeed voluntary, and not procured by ignorance, but that event was; and that being the thing only in question, is to be accounted for, just as those actions which are wholly produced by ignorance antecedent.

8. I deny not but the laws of wise republics have principally regarded the mind and counsel of him that sinned, and that therefore the laws of the Romans, under their Christian princes, did profess to follow the law of God in the matter of involuntary murder, and so did the Lombards, and the Visigoths; yet sometimes this chance-medley, was punished by a lesser punishment: so we find in the laws of the Thuringians, "Qui nolens sed casu quodam hominem vulneraverit vel occiderit, compositionem legitimam solvat." If a man unwittingly wounds or kills a man, "si telum fugit potius quam jecerit," as Cicero [b] expresses the instance, "if his arrow or weapon slipped from him, rather than was flung," he shall not be put to death; but yet neither shall he wholly escape, but must pay a fine appointed by law. And there is some reason for this. 1. Because the law must require

[a] Lib. 15. ff. de Juris. lib. Divus. ff. ad l. Leg. Cornel. [b] Lib. 5. Epist.

the life and blood of every of her citizens from whom it is taken,—and the external event, of which she is the most competent judge, must, as well as it may, be repaired. But, 2. Although it may appear that the event was not intended, yet it cannot so well appear, whether the man did use all that diligence and precaution, which wise and good men ought to do, to prevent mischiefs. And, 3. Something is to be indulged to the injured person, some consideration had of the grief and loss, and the passion of the relatives of the slain person. And upon these considerations, God was pleased to appoint sanctuaries for such persons; which, in true speaking, is but a just remedy for an unjust calamity, and supposes that something was permitted in favour of the relatives of the unhappy man that died, something, I say, which yet was not always deserved of him that was in danger to suffer it.

9. The third sort of ignorance is the worst, it is that which is vincible and voluntary, that is, procured by the will, is not the prime cause of its actions, but the effect, brought in on purpose to make way for an easy mischief with a colour and excuse. Of this there are two noted and discernible degrees: an ignorance crass and dull, and introduced by negligence voluntary and observed, more or less; and an ignorance affected, that is, chosen and delighted in, to serve evil purposes. Now concerning these degrees of this criminal ignorance, it is true of them both, that they bring guilt upon the head of the ignorant, according to their several proportions: but concerning the actions themselves which are acted by men in that state of ignorance and disorder, there is something of particular consideration. For we find our blessed Saviour [b] praying for pardon for his persecutors, upon this very inducement: "Father, forgive them, for they know not what they do;" that is, 'they do not now know, for they are blinded and are in a state of ignorance:' but that it was vincible and voluntary appears by those words of Christ [c], "If ye were blind, ye had not sinned: but now ye say that you see, therefore your sin remains;" and "having eyes they see not,"—that is, they would not see, they did it ignorantly, and they would not cure their ignorance; for it was evident that Christ said and did enough infinitely to convince them that he was the Messias. So also St.

[b] Luke, xxiii. 34. Acts, iii. 17. [c] John, ix. 41.

Paul's [d] ignorance was very culpable, when, in zeal and rage, he persecuted the church of God; but yet this ignorance lessened the malice of the effect, and disposed him greatly towards pardon. Upon these considerations, it is a worthy inquiry into that effect or influence, which proceeds even from a criminal ignorance and undiscerning estate, and what it can operate towards pardon. The question then is, whether what is done by persons that know not what they do, when that disability to know is procured by themselves, either by voluntary negligence, or malicious purpose,—is a sin as great as if it were done knowingly.

Question.

10. The case is this, Marcus Bibulus falls frequently into drunkenness; when he is drunk, he fights, and fornicates, and steals, and does, as it happens, all manner of impiety. Does his drunkenness excuse, or does it extenuate, or does it aggravate, his fault?

11. The Greeks called these things παροινίας, that is, ἡ ἐκ τοῦ οἴνου ὕβρις καὶ οἱαδήποτε ἁμαρτία, "contention and every mischief that comes from wine," saith Hesychius; which when a man hath observed to be consequent to his intemperance, or hath been foretold of it by laws and wise persons, he may justly fall under the sentence not only of drunkenness, but of homicide, or incest, or whatever happens to be the vile daughter of so disgraceful a mother. Drunkards are very often proud and quarrelsome: and therefore to that of Solomon, "Look not upon the wine when it is red,"—Rabba [e] saith, "Ne spectes vinum cujus finis est sanguis," "Look not upon the wine, whose end is blood:" and Eustathius [f] saith, that the nurses of Bacchus were painted, κατέχουσαι χερσὶν αἱ μὲν ἐγχειρίδια, αἱ δὲ ὄφεις· τοῦτο δὲ πρὸς αἴνιγμα τοῦ καὶ θηριώδεις καὶ φονικοὺς εἶναι τοὺς μεθύοντας, "having snakes and daggers in their hands, to show that drunkards were beastly and bloody."—And therefore if such persons could have impunity, there were no safety for the lives of innocent men, or the chastity of modest women. But they neither have, nor have they reason why they should. Οἱ γὰρ μεθύοντες καὶ πράξαντές τι κακὸν ἀδικοῦσι. τῆς γὰρ ἀγνοίας αὐτοί εἰσιν αἴτιοι· ἐξῆν γὰρ αὐτοῖς μὴ πίνειν τοσοῦτον, ὥστ'

[d] 1 Tim. i. Gal. i. [e] Gemara Sanhedrin, cap. 8. [f] Ad Iliad. ξ.

ἀγνοήσαντας τύπτειν τὸν πατέρα, said Aristotle[g]; "They that being drunk do evil, are guilty of the injury: because they are causes of their own ignorance: for they might have abstained from that excess, which caused them ignorantly to smite their father." Pittacus, by a law, caused a double punishment to be inflicted upon drunkards, one for the cause, and the other for the evil effect. The same also seems to be the sense of Plato both in his first and in his sixth book of laws: but generally all the interpreters of Aristotle[h], the old philosophers, the Mahometans, and the Christians, and the heathens, are perfectly of this persuasion, that the sins they do in their drunken fit, are perfectly to be imputed to them. To this purpose is that of Cicero[i]: "Nam qui se propter vinum, aut amorem, aut iracundiam, fugisse rationem dicet, is animi vitio videbitur nescisse, non imprudentia. Quare non imprudentia se defendet, sed culpa contaminabit;" "He that with wine or anger or lust loses his reason, cannot pretend ignorance or want of knowledge for his excuse; for by his own fault he is polluted." And this is the sense of the doctors of the church. St. Basil says drunkenness is *αὐθαίρετος δαίμων*—*ἑκούσιος μανία*, "a voluntary devil, a chosen madness,—so St. Chrysostom; voluntaria insania,—so St. Austin; *αὐθαίρετος μανία*, "a spontaneous fury;"—so Isidore Pelusiot. And the very same words are used by Seneca and Ammianus Marcellinus. And therefore the sinning man must not excuse him by his stupidity, and blame the wine, but himself only; as Callicles[k] in the comedy convinced Dinarchus, when he prayed him to give him pardon,

Quod animi impos visi vitio fecerim;

he was not himself when he did it, it was his wine not he. The old man answered him,

Non places. in mutam culpam confers, quod nequit loqui.
Nam vinum, si fabulari posset, se defenderet.
Non vinum hominibus moderari, sed vino homines solent,
Qui quidem probi sunt: verum qui improbus est, sive subbibit,
Sive adeo caret temeto, tamen ab ingenio est improbus.

"Blame not the wine: for wine does not govern a good

[g] Moral. lib. 1. ad Eudem. cap. 34. et Ethic. ad Nicom. lib. 3. cap. 3. ad 4. vide etiam Politic. 2. cap. ult. et Rhetor. 2. cap. 27.
[h] Averroes in lib. 3. Ethic. cap. 5.
[i] Ad Herennium 2. cap. 16. 6. Wetzel, vol. 1. pag. 53.
[k] Trucul. act. 4. sc. 3. Ernesti, vol. 2. pag. 468.

man, but a good man the wine: but he that is wicked, is wicked from within, whether he drinks or no." By these sayings of wise men we perceive that they held not the drunkard innocent even in those vilenesses, which he did in his drunkenness; and their reason was philosophical. The effect from a voluntary cause is to be imputed to the first principle.

12. But commonwealths have another interest to serve; they are to secure the lives and good things of their citizens, and therefore they are by all means to effect what is necessary: and if drunken mischiefs were unpunished, men might pretend drunkenness for an excuse, and make it really to be the warrant of their licentiousness, their rapine, their lust, or their revenge.

> Nam si istuc jus est, ut tu istuc excusare posses,
> Luce claro deripiamus aurum matronis palam;
> Post id, si prehensi sumus, excusemus, ebrios
> Nos fecisse amoris causa: nimis vile'st vinum atque amor,
> Si ebrio atque amanti impune facere, quod lubeat, licet;

said old Euclio[l] to Lyconides: "If drunkenness may be our excuse, let us go and drink drunk, that we may rob the matrons in the streets."—And Manuel Palæologus[m] tells of one that had a mind to be revenged and put some affront upon a great man; and because he durst not when he was sober, he drank himself into an impudent fierceness, that he might first have boldness, and then, as he hoped, impunity. And therefore there may be great reason, why the civil laws of any nation should punish the evil effects of drunkenness not only for the evil mother's sake, but for the security of the citizens.

13. But in theology and in the just estimate of things in order to conscience, we are to speak and to proceed with some little difference. For if it be asked concerning the drunkenness, or concerning the man, there is no peradventure, but he is for these evil effects the worse man, and the drunkenness is also the greater crime. The drunkenness makes the injury or the murder less criminal than if it were done with actual reason and choice, but these make the drunkenness more intolerable and criminal. The man in choosing drunkenness with or for these effects is much the worse man; but the

[l] Aulul. act. 4. scen. 10. 17. Ernesti, vol. 1. pag. 133. [m] Orat. 3.

crime is the voluntary drunkenness, not the involuntary rage and injury. And this appears upon these reasons,—

14. Because by how much the more sense and reason is depraved, by so much the less the man hath pleasure in his sin. For if he be wholly mad or senseless, his sin is wholly useless to him, it does him no present delight, any more than to a beast to push with his horns; which therefore is not criminal, because he cannot reflect upon his own act, he cannot choose it for a reasonable consideration, he hath no will to entertain it. But if he be not so far gone, then there is some proportion of guilt, because there is of choice in the shipwrecks of his reason and his will: and therefore Theodoret[n] said, Τὸ δὲ τῆς μέθης ἔχει τινὰ μέμψιν κεκραμένην συγγνώμῃ, "Drunkenness hath some reproof, and some pity; some punishment, and some pardon." And Arrius Menander[o] said, that "per vinum aut lasciviam lapsis capitalis pœna remittenda est," "they that sin by drunkenness or passion, may be punished, but not capitally;"—the same with that in Stobæus; Τὴν μέθην ἀναμαρτήτικόν τι περιέχειν. Even in the follies and stupidities of drunkenness there is something amiss besides the material part. But this is, when there is something left, by which he can understand and choose something of the crime.

15. The mischiefs, consequent to drunkenness, are therefore less moral evils, because they do less moral mischief: For no man by his lust, acted in his drunkenness, is made more lustful, or by any act then done is promoted towards a vicious habit; for he knew not what he did, and remembers it not: it is like Lot's incest, no more known after than before, and therefore it leaves no sediment or lees behind it; which shews it to have more natural vileness than moral, and therefore is nearer to pardon.

> Et causa justa est, siquidem ita est, ut prædicas,
> Te eam compressisse vinolentum virginem[p].

If the young man was drunk when he lay with her, he hath some excuse, that is, as to his lust; but that is an aggravation of his drunkenness, and he is not the more acquitted, when the aggravation of his sin and punishment is only placed upon the right cause.

[n] Qu. 59. in Genes. [o] In lib. 6. de Re Milit.
[p] Aulul. act. 4. scen. 7. Ernesti, pag. 131.

16. If the consequent mischiefs of drunkenness were formally those sins which materially they are, that is, if they were properly guilty of all that they ignorantly do, then it would follow, that because murder is worse than drunkenness, and yet that murder was involuntary, some action that is involuntary, would be more malicious than that which is chosen. If it be replied, that those consequent acts are chosen, because the cause of them is chosen, according to what is discoursed in the fourth rule of this chapter;—I answer, that this is true, if drunkenness were not an accidental cause of them: but these effects being but contingent to drunkenness and the effect of some other evil principle, which then prevails, when by drunkenness the man's guards are called off, therefore they cannot be entirely attributed to drunkenness; and therefore if a man be surprised with drink, or is advised to it as to a medicine, if he falls into such consequent disorders, it would be hard to damn this man as a murderer or as an incestuous person, when he is so neither by his present, nor his antecedent choice. Therefore it is that Libanius [q] says, that one who hath grievously offended another, πολλάκις ἀθῷος ἀπῆλθεν εἰς οἶνον καταφυγὼν, "oftentimes is not punished, when wine was his excuse;" and the scholiast upon the βασιλικὰ says that he that kills a man ἀπὸ μελέτης, 'with deliberation,' is ἀσύγγνωστος, 'not to be pardoned:' if he does it by chance, he is free; but if by drunkenness, he was, by the Roman law, banished for five years: and thus justice is preserved on all hands, that the drunkenness should be punished more than drunkenness, and the murder less than murder. For that is the worse for having such a daughter, but this is more pardonable for having such a mother.

17. But if the drunkenness be but imperfect, if the consequent crimes be remembered and delighted in afterward (for that is a certain indication the stupidity was not extreme, nor equal to an excuse), then

Μισῶ μνήμονα συμπότην, Πρόκιλλε [r].

such a drunkard is also that which he acts and professes in his folly: a remembering drunkard, as he is but an ill companion, so if he falls into the horrid consequents, which too often are the punishments of intemperance, hath no excuse.

[q] Declamat. 22.

[r] Martial, i. 28. Mattaire, p. 13.

But if he chose drunkenness on purpose that he might have impudence enough to do a mischief, he committed the sin beforehand, and was, before he acted it, guilty before God; and when he hath acted, he is also guilty before men[s]. But unless it be in these cases, the actions done by him that understands not what he does, are as the actions of a madman or a fool. The sin was done before, and the mischief and the punishment do follow: but the guilt is in the cause, not in the effect that is involuntary; though proceeding from a cause that was indeed voluntary, but not univocal and proper.

18. The sense of this question, thus explicated, agrees with the doctrine of the fathers, who, in the instance of Lot, declare him criminal only as to his drunkenness, not to his incest. So Origen[t], St. Chrysostom[u], St. Austin[x]: and St. Ambrose[y] gives this account of the whole question: "Sane discimus vitandam ebrietatem," &c. "We learn that drunkenness is to be avoided, by which we are brought to that evil state of things, that we cannot beware of crimes. For those things, which being sober we avoid,—when we are drunk, we ignorantly commit." And a little after;—"They who have been too free in drinking wine, know not what they speak, they are like dead men and buried:" "Ideoque siqua per vinum deliquerint, apud sapientes judices venia quidem facta donantur, sed levitatis damnantur auctores;" "Therefore what vilenesses they commit in their wine" (meaning, when they know not what they do), "for the deeds themselves so ignorantly committed they find pardon amongst wise judges, —but, for their temulency, a condemnation."

19. The result of these discourses is this. The vilenesses which are done by drunken and stupid persons unwittingly, are not of the same kind, of which naturally they are and would be, if the actors were sober: they are not the crimes of murder or lust or incest respectively, but circumstances of great horror aggravating the drunkenness, and deeply condemning the man. And yet, if the drunkenness be not extreme, I mean the stupidity and ignorance, if that be not such as to take away wholly the use of reason and moral choice, all the remaining portions of reason do, in their proper degree, make

[s] See rule 4. of this chap. num. 2.
[t] Homil. 5. in Genes.
[u] Homil. 44. in Genes.
[x] Lib. 2. contr. Faust. Manich. cap. 44.
[y] Lib. de Patriarch. cap. 6.

the imperfect drunkard guilty of other perfect crimes, even of whatsoever he then shall act; and they shall, for their own degrees of remaining choice, be imputed to him as certainly as the drunkenness.

20. The same is the case of inconsideration and oblivion, whose effects are innocent upon the same accounts and no other. If they come in upon a negative principle, that is, begin and proceed upon a natural deficiency and an unavoidable cause, that which is forgotten, or that which is done by forgetfulness, must be amended and repaired as well as we can; but, by a preceding morally diligent care, and an after-revocation, nolition, or amends, it may be kept innocent. This only thing is to be interposed, that if, by the precontract of a vicious habit, there is ingenerated in our spirits and exterior faculties such a promptness and facility of sinning, that many of the acts of such a habit are done without advertency, as in vile and habitual swearing,—every such action, though passing without notice, is criminal, because it is the product of the will habitually depraved; and there is no other cause why the actual consent of the will is not at it, but because it was not required, but presumed, and taken without dispute. A young lutenist contends for every single touch of a string; but when he hath made it easy and habitual, he resolves to play a set of lessons, and every stroke is voluntary, though every one is not now actually considered.

Question.

21. To this section of ignorance belongs the question concerning fraud and guile. For if another man cozens and abuses my understanding, he places me in ignorance; and then it is worth our inquiry,—'What morality or what obligation there is in those actions which are done by us so abused, so deceived, so made ignorant, and incapable of judging rightly.'

22. The answer relies upon the same grounds as formerly, with this advantage,—that he who is deceived by the crafts of another, hath most commonly an ignorance that is very innocent; and then if that ignorance be wholly the cause of any action, the cause is innocent and so is the production. And upon the same accounts we are to judge concerning the obligation of promises and contracts made by persons in

error and deception. 1. If the error be concerning the substance of the thing contracted for, the contract is naturally invalid, and obliges not at all. If Titius buy a horse, and Caius send him a mule or an ox, there is nothing done; Titius hath made no bargain at all. If I buy a man-servant, and the merchant sells me a maiden dressed in man's apparel, this makes the contract invalid; I made no bargain for a maid-servant, but for a man. When Jacob married Rachel, and lay with Leah, that concumbency made no marriage between them; for the substitution of another person was such an injury as made the contract to be none at all: and unless Jacob had afterward consented, Leah had been none of his wife. 2. If the error and ignorance be not in the substance of the contract, whatever else the error be, the contract is naturally valid, that is, without a new contract and renewed consent it can stand; but if that error was the cause of the contract, which, if the error had not been, would not have been at all, then it is in the power of the abused person to rescind the contract, and the fraudulent contractor is, in conscience, bound to recede from all his ill-acquired advantages. The reason is, because he did injury to his neighbour, and placed him in evil dispositions and unaptness to choose wisely, otherwise than God and the laws of nations and the common intention of contractors, do intend: and therefore although there was so much of the substantial requisites as could make a contract naturally valid, yet it was so ill, that all laws and intentions and tacit conditions of contractors have thought fit to relieve the abused person: "Dolo vel metu adhibito, actio quidem nascitur, si subdita stipulatio sit: per doli mali tamen vel metus exceptionem submoveri petitio debet[z]:" and the reason is given[a]; "Si, dolo adversarii deceptum, venditionem prædii te fecisse Præses provinciæ animadverterit, sciens contrarium esse dolum, bonæ fidei, quæ in hujusmodi contractibus maxime exigitur, rescindi venditionem jubebit:" "In contracts, the honesty of the contractors is principally to be regarded, and fraud is destructive of all honest intentions; and therefore the prætor shall rescind such fraudulent bargains." 3. But if the error was not the entire cause of the contract, but that,

[z] Lib. Dolo. 5. cap. de Inutilib. Stipulat. et Instit. de Exceptionib. in initio.
[a] Lib. Si Dolo, 5. cap. de Rescindenda Venditione.

upon other accounts, we would have bargained, only we would not have paid so great a price, then the bargain is valid, and the prætor cannot rescind it, nor the injured person revoke it; but the civil law in this case did permit 'actionem quanti minoris,' that is, an amends for so much detriment as I suffer apparently by the fraud. If Caius sells to Mævius sheep which he affirms to be sound, but they are indeed rotten, the law[b] permits not rescission of the bargain, but forces Caius to restore so much of the price as the sheep were overvalued. And this is also the measure in the court of conscience. But this is to be understood in such cases, where the fault of the vendible commodity cannot be discerned by the buyer, and where the seller did deceive voluntarily. For in other cases 'Caveat emptor' is the rule of the law,—'Let the buyer look to it:' and it is also the rule in conscience. The seller must not affirm the thing to be without fault, if he knows it vicious and faulty. But neither is he bound to proclaim the faults of his goods, if they be discernible. And of this Cicero[c] discourses reasonably: "Num te emere coegit, qui nè hortatus quidem est? Ille, quod non placebat, proscripsit; tu, quod placebat, emisti. Quod si qui proscribunt 'villam bonam beneque ædificatam,' non existimantur fefellisse, etiamsi illa nec bona est, nec ædificata ratione; multo minus, qui domum non laudarunt.—Ubi enim judicium emtoris est, ibi fraus venditoris quæ potest esse? Sin autem dictum non omne præstandum est, quod dictum non est, id præstandum putas? Quid vero est stultius, quam venditorem ejus rei, quam vendat, vitia narrare? Quid autem tam absurdum, quam si domini jussu ita præco prædicet, 'Domum pestilentem vendo?'" "Who compelled thee to buy? the man that sold it, did not, it may be, so much as desire thee. He sold it because it did not please him; and because it did please thee, thou hast bought it. He that sets up a bill of sale, and proclaims a house fair, and well-built and well-seated, hath not deceived thee, though it be neither well-built, nor well-seated; because if it be entire for thee to make a judgment, he hath not deceived thee. Much less if he hath not praised it. For if all that is spoken in the bill, is not of necessity (viz. in order to the bargain

[b] Lib. 13. ff. de Actionibus Empt. in Princ.
[c] Lib. 3. Offic. cap. 13. 6. Heusinger, pag. 663.

or thy choice) to be verified, much less must that be performed or required which was not spoken. But does ever any man cry, 'Stinking fish to be sold,' or say, 'Come and buy a house that hath the plague in it?'"—All this is great reason; only this is to be added, that such faults as cannot be discerned by the buyer, must be declared, or must be allowed for in the price: and the case is the same, if the buyer be a child, or a fool, or an ignorant undiscerning person; for no man must be made richer by the injury and folly of his brother. I know that in all the public contracts of mankind, that which all men [d] consent in is, to buy cheap and to sell dear: but Christian religion, and the contempt of the world, and the love of spiritual interests, are sent from heaven, to cause merchandise to be an instance of society, and not a craft and robbery. 4. If the buyer be deceived, but not by the seller, but by a third person, and that deception be the cause of the contract, the buyer may rescind the contract, if he can [e]; that is, he is not in conscience obliged to stand to it, if he can be quit in law: but he that deceived him, is bound to repair his injury if he have suffered any,—or to break the bargain, if the goods be unaltered. These things have no particular reason, but are evident upon the former accounts.

Sect. 3. *Of Fear and Violence, and how these can make an Action involuntary.*

RULE VII.

Fear that makes our Reason useless, and suffers us not to consider, leaves the Actions it produces, free from Crime, even though itself be culpable.

1. The case is this; Roberto Mangone, a poor Neapolitan, travelling upon the mountains to his own house, is seized on by the banditti, a pistol is put to his breast, and he threatened to be killed, unless he will be their guide to the house of Signor Seguiri his landlord, whom, he knows, they intend

[d] Lib. in Causam. sect. Idem Pom. ff. de Minor. et lib. item. si sect. ult. ff. loc.
[e] Lib. Si Voluntate. cap. de Rescind. Vend.

to rob and murder. The poor Mangone did so: his lord was murdered, his goods rifled, and his house burned. The question is, whether Mangone be guilty of his lord's death.

2. To this the answer is easy, that Mangone is not innocent; and though he did not consent clearly and delightingly to Seguiri's death, yet rather than die himself he was willing the other should. No man is desirous, in a storm, to throw his goods into the sea, if he could help it, and save his life; but rather than lose his goods and his life too, he heaves them overboard. Μικταὶ μὲν οὖν εἰσιν αἱ τοιαῦται πράξεις· ἐοίκασι καὶ μᾶλλον ἑκουσίοις, said Aristotle[f]; "These kinds of actions are mixed, but they have more of spontaneity" and election in them than of constraint. No Christian remaining a Christian is willing to offer sacrifice to demons, or to abjure Christ, if he be let alone: but he that in time of persecution falls away, not changing his heart, but denying his profession, this man is not excused by his fear, but betrayed by it. Ἔνια δ' ἴσως οὐκ ἔστιν ἀναγκασθῆναι, ἀλλα μᾶλλον ἀποθνητέον, παθόντα τὰ δεινότατα, "There are some things to which a man must not suffer himself to be compelled by any force, but he must rather die than do them[g]." And because there are some things ἃ καὶ τὴν ἀνθρωπίνην φύσιν ὑπερτείνει, "which are insufferable to human nature," and therefore there is, in laws, assigned a certain allowance of fear, "qui potest cadere in fortem et constantem virum," that is, in the case of danger of suffering the extremest evils, and our obedience to human laws is excused in such cases, because no man is ordinarily bound by the laws to suffer a greater evil in keeping the law, than is threatened by the law itself to him that breaks them: therefore the law allows an omission of obedience in the fear of the greatest evils;—as I have already explicated[h]. But in divine laws it is otherwise, because no man can threaten or inflict on another an evil comparably so great as God does on them that break his laws; and therefore the less fear cannot be a reasonable excuse against a greater; and in all cases, the fear of man must yield to the fear of God. And therefore in the matter of a divine commandment, no fear of temporal evil is an ex-

[f] Ethic. lib. 3. cap. 1. Wilkinson, pag. 62. [g] Ibid.
[h] Lib. 3. chap. 1. rule 6.

cuse or warranty. Because we are taught to despise poverty and pain and death, and to do all this cheerfully and gloriously. And therefore this case of conscience and its whole dimensions are quickly measured.

3. But this is only in negative commandments, for they can never be broken with innocence upon what pretended necessity or violence soever. But, in positive commandments, the case is not so clear, but fit to be more considered: but it will quickly also come to an issue, if we distinguish omissions from commissions. For no man may, upon any pretence, do any thing against a positive commandment. He may omit to visit a Christian in prison, if he fears he shall lose his life in the visitation, or be threatened with any great calamity; but he may not do him any injury or oppression to save his life and liberty. But I have to this also given particular answer upon another occasion[1]. That which I am to add here, is this; There is no peradventure but the obedience to a positive commandment, till it be placed in its own circumstances, and required *here* and *now* and *so*, will give place to so just a cause of deference and stay, as is the securing ourselves against a great fear. For where God hath not required us in particular manner to do a duty, he hath required it in a very particular manner to preserve ourselves. But when the case is so, that the particular is required, no fear of man can hinder us. For in all things God is to be preferred. And therefore it is so rarely well ordered, that unless it be in extraordinary cases, as the apostles preaching the gospel, their open confessions of faith, their declaring against religions of the world at that time, for which they had special commands, and were to do them and not to fear the fear of men, there is scarce any positive law of God, but either it may be performed by an internal suppletory, by a desire and willingness and endeavour, or else will be sufficient to be done in the article of death, that is, then when we need not fear the worst that man can do unto us. Thus it is in the susception of the sacraments; from the actual susception of which by a great and just fear if we be frighted; we cannot be hindered from the desire and spiritual and most effective susception of them: and from the actual if we be by a just fear delayed (though the case cannot often hap-

[1] Ubi supra, et lib. 2. chap. 3. rule 11.

pen), yet it is generally supposed, that if they be done before our death, the commandment is obeyed, if the delay was not on our part; and our death, no new fear of death, can be a just excuse. However, if it or any thing else be positively and determinately required in circumstances, we must not be afraid of them that can only kill the body; or if we be, the fear and the omission are both criminal, and this is not excused by that.

4. But if in these or any other cases, the fear be a surprise, sudden, and violent, and impetuous, that is, such that our reason is invaded and made useless, such as by a natural effort disorders all our faculties, such as that of Arachne in Ovid[k];

> Quid mihi tunc animi miseræ fuit? anne quod agnæ est,
> Siqua lupos audit circum stabula alta frementes?
> Aut lepori, qui vepre latens hostilia cernit
> Ora canum, nullos que audet dare corpore motus?

'such a fright as a hare or lamb are in, when they are pursued by dogs and foxes;'

> Occupat obsessos sudor mihi frigidus artus;
> Cæruleæque cadunt toto de corpore guttæ:

when nature is in a lipothymy, and our strengths are made extravagant, when we can do any thing in flying, and nothing at all to consider,—then our understanding cannot deliberate, and then our will does not consent, and then the effect is pitiable, but not criminal, but the fear itself possibly may be both. For sometimes our fear may be so great, that it fills all our faculties, and then there cannot be any deliberation; for that must be at leisure, and must look upon two objects. Statius[l] well describes this kind of fear in the similitude of a hunted stag.

> —— qualis cum cerva cruentis
> Circumventa lupis, nullum cui pectore molli
> Robur, et in volucri tennis fiducia cursu,
> Præcipitat suspensa fugam, jam jamque teneri
> Credit, et elusos audit concurrere morsus:

'She hath no courage, no confidence, no hope of any thing; she dies if she stays, but she cannot stay to consider so long; and when she runs, she dies too, and she hears the wolf at

[k] Met. v. 626. Gierig, vol. 1. p. 357.
[l] Thebaid. v. 165. ed. Veenhusen, p. 475.

her ear, and sees him with her eye, and feels the teeth in her heart, and dies with fear.'. In such cases as these we are as men without reason, and therefore to be judged accordingly. I have heard of a trooper, who, in the late sad wars of England, being alarmed, was so affrighted that he bridled his comrade instead of his horse: and in the last inroad which the Turks made into the empire, a German carrier was so affrighted with the noise of Turkish horses coming, that he knew not how to make use of his own to fly away, but deploring his condition that his horse being loaden, could not run fast, had not the reason left him, though he had time, to throw off his pack, but stayed in that amazement, till the prisoner of fear became a slave to the Turks. What a man does in such a case, no equal estimator of things will impute to choice or malice. He that flies from a lion pursuing him, and in his affrightment runs into a river, is not criminally guilty of his own death. He runs into one death before another, but prefers it not: for if he were in the same fear of drowning, he would leap ashore, though a lion did stand there, expecting of a prey.

5. Concerning degrees of fear which are less, such which leave us in a power to consider and deliberate, they may lessen the malice of the crime to which they drive, but cannot make the fact innocent. He that is taken by a tyrant and an unjust power, and put amongst the troops, is not innocent, though, in that fear and against his will, he fight against his prince. Ἐς μάχας ἐθελονται (εἴγε ἐθελοντὰς τοὺς ἀναγκασθέντας φόβῳ καλεῖν δεῖ) ἦλθον, said Dio Cocceius; "They went willingly to war, if at least they may be said to be willing, who are constrained by fear." It is an unwilling willingness, and therefore it is a sin almost against their will. For in despite of such a constraint, a man may use his liberty; as Lucian[m] says of the young man, οὐδὲ νῦν γεγάμηκεν, ἀλλὰ καταναγκαζόμενος καὶ βιαζόμενος ἠρνήσατο, "he did not marry, but though his father forced and compelled him, yet he refused."

6. The same is the case of superstition, which is an excessive and inordinate fear in the matter of religion. If the fear be supreme and distracting, the effects of it are very pitiable; but criminal only in that degree in which it is vin-

[m] Dial. Meretric.

cible, and can be subdued by reason. When Michael Stifelius, a German, in Luther's time, had affrighted the people with a confident and terrible prediction of the day of judgment, within a few days to be revealed, the poor affrighted people left off their daily labours, and took care of no duty for this life. This omission at another time would have been very criminal; but now their superstitious fear did alleviate it, if not wholly take it away. But in this there is nothing particular, save only that the causes of fear in this case, are worse than in other things; but the effects themselves are not commonly very bad.

7. But this passion of fear hath in it yet more difficulty in relation to human contracts, and obligations, which can be evacuated and declared never to have obliged, if they commenced with fear. For upon this account, some pretend contracts of marriages, absolutions from ecclesiastical censures, testimonies in testamentary causes, vows, donations, sentences, resignations of benefices, constitutions of proctors, election to offices, and oaths of obligation to men, and promises, not to oblige, if the promiser or contractor was constrained by fear.

8. But to all these the answer will be the same, for they are all discernible by the same reason. If the fear was such that it might affright a wise and a constant person, the law judges the contract to be null, and not to oblige in law, which is the measure of contracts, and legal obligations. But although the law declares many particular cases, in which the fear does annul the contract, and in such cases ordinarily, there needs no further inquiry; yet because many cases happen in which the law hath not regularly declared her sentence, by that measure which the law goes by, we may without trouble determine ourselves. The rule therefore is this; When an evil threatened is so great, that to suffer it is more intolerable than to do the thing to which you are compelled, there the fear is supposed great enough to nullify the contract. If a rich person be threatened, that he shall be forced to pay a hundred pounds, or marry the oppressor's daughter; if he promises to marry her, he is obliged,—and that fear and that threatening shall not prevail to evacuate his promise: because he that so threatens, intending but an evil that is very tolerable, if the marriage be of worse

mischief, he did not choose it out of fear; for he that does so, chooses the less evil to avoid a greater, not a greater to avoid a less; so St. Austin[n] observes: "Neque enim dici solet quispiam voluntate fecisse, siquid fecit invitus; quanquam si subtilius advertamus, etiam quod quisque invitus facere cogitur, si facit, voluntate fecit: sed quia malit aliud, ideo invitus, hoc est, nolens, facere dicitur;"—and Simplicius[o] to the same purpose: "Quia licet inviti agamus, tamen sic agere eligimus." It is indeed against our will; but when things are in an evil state, we choose the least. If therefore he chooses that, which, he says, is a worse evil,—he cannot pretend it is for that fear; and consequently it must be upon some other motive, something of his own; and if it be, it will verify the contract. Titius finds Caius at an advantage with a watch and a ring about him of no great value; he threatens to take them from him, unless Caius will promise the next day to bring him twenty talents. Caius promises it, and therefore is obliged, for he cannot say, he was compelled. For no less violence can constrain us to suffer a greater, because that is far more eligible than this. And therefore the law calls nothing a just cause of fear, but the fear of the greatest evils, as death, torment, dismembering, intolerable disgrace; that is, such things, which to avoid, a man would suffer any evil that is less. Now because in contracts we intend some advantage to ourselves, real or imaginary, and in contracts effected by a great fear, we can design none but the avoiding of a greater mischief, the law and right reason wholly attribute it to fear, and therefore annul the contract. Martial's[p] case is pertinent to this inquiry,

> Quod si me tonsor, cum stricta novacula supra est,
> Tunc libertatem divitiasque roget,
> Promittam: nec enim rogat ille tempore tonsor;
> Latro rogat: res est imperiosa timor.
> Sed fuerit carva cum tuta novacula theca,
> Frangam tonsori crura manusque simul.

"If a barber, when the razor is upon my throat, contracts with me for twenty pounds, if I fear he will cut my throat if he be denied, I promise to him as to a thief;" with whom whatsoever contract I make in my intolerable fear, no law of

[n] Lib. Singul. ad Marcellin. de Spir. et Liter. [o] In Epictetum.
[p] Lib. 11. ep. 59. Mattaire, pag. 229.

man does verify it. But Martial, as to his instance, was no good casuist.

9. For if it be inquired, whether I am obliged in conscience to keep my promise to a thief or a bandit, which I made to save my life; I answer that I am. Because, he being an outlaw and rebel against all civil laws, and in a state of war, whatever you promise to him, you are to understand according to that law under which then you are, which is the law of nature and force together. So that you cannot be guarded by the defensative of the civil laws, nor is your contract under its guard and conditions. In contracts under the protection of civil laws, we are to go by its measures, and the contract is good or bad accordingly. But when we have no measures but what we can get of ourselves, our contracts are to begin and end between ourselves, and by our own proportions. But in law, no man is supposed to have consented, but he in whose power it is to dissent. "Si vis scire ut velim, effice ut possim nolle[q]:" and every contract must have ὄρεξιν κατεξούσιον, as Damascen calls it, 'a desire free from all bond.' Αὐτεξούσιον δὲ, ὅτι μὴ ἐξ ἀνάγκης. If there be force and a sad necessity in it, it is a calamity rather than a contract; and therefore the laws intend to defend and rescue us from the oppression.

10. I am to add one caution, that no reverential fear, let it be ever so great, and the person ever so timorous, so that the use and ministries of reason be left, can excuse a sin, or nullify a contract. The reason is given by Aristotle[r]: Ἡ μὲν οὖν πατρικὴ πρόσταξις οὐκ ἔχει τὸ ἰσχυρὸν, οὐδὲ τὸ ἀναγκαῖον, "The father's empire hath in it no violence and no coaction."—And Heliodorus Prusæus, in his paraphrase, saith the same thing, that "the commands of parents," or such whom we reverence and fear, τὴν ἰσχὺν οὐχ οὕτω μεγάλην ἔχειν ὥστε βιάζεσθαι, "have not such force as to compel:" not but that we are to obey; but that what we do out of reverential fear to them, is not compelled, but voluntary and chosen.

11. What is said of fear, is not true of other passions, lust and anger, or whatever else is productive of those effects which use to make men ashamed, and disorder all their interests. 1. Because these passions are seldom of that nature

[q] Seneca. [r] Ethic. lib. 10. cap. ult.

and degree of violence as to take away all powers of deliberation; and therefore they are but seldom fit to be pretended in excuse of any action. 2. They are commonly the true mothers, the univocal parents, of their productions, otherwise than it is in fear, and drunkenness, and ignorance; for these produce things of a nature different from their immediate principles, as drunkenness produces effects of anger, of lust, &c. that is, it is the occasion of them, not the proper mother. But lust produces lust, and anger sends forth angry words, and spiteful actions, and resolutions of revenge. 3. The products which come from these passions, are so very far from being rendered involuntary, that by these passions they are made most delightful, and without them they could not please at all. 4. Whenever they prevail to any violence or extremity of degree, it is by an increasing will; not by weakness and natural infirmity, but by a moral state of infirmity, that is, a state of sinfulness. 5. It is not in these as it is in fear, or vincible ignorance, that what is voluntary in the cause, may be involuntary in the effect: but in these passions and temptations, the mother and the daughter are chosen; not the one directly and the other by interpretation, but both of them properly, directly, and immediately. For these reasons the case of these passions is curiously to be distinguished from the precedent. But when these passions do come to extremity, although their proper acts are not the less sins, but the greater, as an act of anger is the more devilish, by how much the passion is the more extreme; yet if any equivocal and contingent effects be produced, as if in the violence of lust, a child be run over and hurt, or any thing that is not natural to that passion, nor intended by the man,—then according to the degree of the ecstasy and transport by the passion, the contingent effect may be lessened in its malignity. And in this sense is that of Libanius[s] to be understood; or else it is not true, that injuries are very often to be remitted, if the man hath drunkenness for his excuse, ἢ θυμὸν, ἢ προπέτειαν, ἢ λήθην, ἤ τι τοιοῦτον, "or anger, or forgetfulness, or arrogance, or any such-like thing."—Like to this is that of Arrius Menander[t]; "Capital punishments are not to be inflicted 'per vinum aut lasciviam lapsis,' 'to them that

[s] Declamat. 22. [t] Ubi supra.

offend by the follies of drunkenness, or the violence of lust.'"

—— Et vino tortus, et ira:

Wine and rage are like two racks, and compel men to open secrets. Now when the case is so that the effect is equivocal, as it is in drunkenness in many instances, and in other passions sometimes, there only there is some diminution or excusing of the crime. But the ancients gave too much liberty, and an indifferent sentence in these cases, because, wanting the Christian measures, they understood no better.

CHAP. II.

OF THE FINAL CAUSE OF HUMAN ACTIONS; AND ITS INFLUENCE OR CAUSALITY OF GOOD AND EVIL.

RULE I.

In every good Action the Means and the End must be symbolical: so that, 1. *a good Action done for an evil End, and,* 2. *an evil Action done for a good, are alike criminal.*

1. The first part of this rule is in the express words of our blessed Lord[u], "Take heed that you give not your alms before men, to be seen of them." Even 'alms,' which 'are our righteousness,' and so rendered both by the Arabic and the Vulgar Latin, yet if done to vain-glorious purposes, are good for nothing, but are directly acts of vain-glory. Τῆς εὐποιΐας σαλπιζομένης ὄφελος οὐδὲν, saith St. Basil; "The noise of a trumpet spoils our alms."—For from the end every action is qualified; and an indifferent action is made good and bad by the end; and that which is so already, is made more so by a participation of that to which it is designed. For the end changes the nature as well as the morality of the action. So Aristotle[x]: Εἰ ὁ μὲν τοῦ κερδαίνειν ἕνεκα μοιχεύοι καὶ προσλαμβάνοι, ὁ δὲ προστιθεὶς καὶ ζημιούμενος δι' ἐπιθυμίαν· οὗτος μὲν ἀκόλαστος δόξειεν ἂν εἶναι μᾶλλον ἢ πλεονέκτης· ἐκεῖνος δ' ἄδικος, ἀκόλαστος δ' οὔ. "He that commits adultery for

[u] Matt. vi. 1. [x] Lib. 5. Ethic. cap. 2. Wilkinson, pag. 186.

gain, is covetous, not lascivious: but he that spends his money and suffers loss for his lust's sake, he is the wanton." —And therefore God and all wise men regard not the exterior action in their accounts of virtue, but the manner and purpose of doing it. "Quoniam quidem non in facto laus est, sed in eo quemadmodum fiat. Eadem res si gulæ datur, turpis est: si honori, reprehensionem effugit. Amico ægro aliquis assidet? probamus: at hoc si hæreditatis causa facit, vultur est; cadaver exspectat": so Seneca: "The praise and virtue are not in the thing done, but in the manner of doing. If we spend great sums of money in our kitchen, it is sordid: but if upon public works, on colleges and hospitals, on the poor or upon religion, it is brave and noble. He that visits his sick friend in charity, does well; but he that sits by him and watches with him in hope to get a legacy, is a vulture, and watches for the carcass and the prey."

2. Now concerning this, the best compendium of all the cases of conscience which can relate hither, is, that with hearty simplicity we pursue that rule of St. Paul [y], "Whether ye eat or drink, and whatsoever ye do, do all to the glory of God:" the same with those other words of his [z], for the one illustrates and explicates the other; "Whatsoever ye shall do in word or deed, do all in the name of the Lord Jesus, giving thanks to God, even the Father, by him."—Concerning the obligation and full sense of these precepts, the following measures are our rule.

3. He that,—in every action that is considerable, and fit to be noted and discerned, and is distinguished by counsels and consultations, by deliberation and observation,—does actually design the glory of God, does his work most perfectly. It will shame the tepidity and incuriousness of Christians, if I tell them that this advice is given to us by some wise heathens. When Marcus Brutus had given many excellent precepts to parents, and children, and brethren, he adds, "Hæc nemo faciet quemadmodum debet, nisi habuerit quo referat. Proponamus oportet finem summi boni, ad quem nitamur, ad quem omne factum nostrum dictumque respiciat, veluti navigantibus ad aliquid sidus dirigendus est cursus:" "No man can do these things as he ought, unless he direct them to some proper end. We must propose to ourselves the

[y] 1 Cor. x. 31. [z] Coloss. iii. 17.

chiefest good for our end, to which every word and every deed of ours must have regard; as mariners, in their sailing, look to a star for conduct." This is not so to be understood as if we were to make actual directions and dedications of every single word, or little minute action we do, to the glory of God: this is a snare to consciences, and a hypochondriacal devotion which some friars have invented, and attributed to St. Gertrude, of whom they report that Christ admonished her that she should consecrate every little part of action and word unto him; not only every writing, and every discourse, and every meal, and every prayer, but every bit she put into her head, and every letter she did write, every single step she did tread: just as if a man that were to receive a thousand pounds should tell it over by so many single maravedes, and not be content to tell every shilling, but reckon how many farthings are in the whole sum; this would sound great as the Spanish cobbler's portion to his daughter; but certainly a wise man will find something else to do, which may be more really for God's glory, than so to tell his little minutes and particles of actions. It is a great piety if we dedicate to God all our states of life, and all our great actions in every state, and all changes, and every day, and every night, and every meal, and every beginning of labour, and give God thanks at every end, and invocate his help in every progression; for so doing, we shall consecrate our whole life to God. And this counsel St. Macarius [a] of Alexandria gave to Palladius bishop of Helenopolis; who when he was a young man, was much troubled in conscience concerning his unprofitable life, and supposed that he did nothing that was good, nothing that was profitable, but all he did, was vain and trifling. Macarius told him, "Dic tu tuis cogitationibus, Propter Christum custodio parietes," When such afflictive thoughts do intervene, say unto them, "For Christ's sake I keep the walls." Nothing could be a meaner employment, nothing could be less useful; for the walls were not likely to run away. His meaning was, 'Whatsoever the employment of a man's day or a man's life be, though ever so mean, yet if it be done with a single eye, and with an intuition on Christ, it is a holy employment.

4. Although our intentions by how much the more they

[a] Hist. Lausiac. cap. 20.

are actual, by so much they are the better, yet it is not necessary that they be always actual; but they are right if they be virtually and habitually directed unto God: that is, that by some general designation of our actions, by the renewing of our intentions actually in certain periods of time, as in the morning of every day, or at evening, or both, or in every change of employment, we have an actual intuition on God and God's glory; and then though we only attend to the work without any more actual consideration of the end, the intention may be right, and the action sanctified.

5. But because thousands of words and actions may pass wise and good men in which they do not actually reflect upon the end of God's glory, and that possibly the thinking of it, and saying, 'I design this to God's glory,' is of no more value than if a man says, 'I love God;' which if it be only an act of fancy, or of ineffective affection, is no sure indication of the true love of God, but must be expressed by something that is more material and properly significative of love according to the commands of God and the manner of men; therefore we cannot better judge of the goodness of our intentions, or that we do our actions for the glory of God, than when we are in all things careful that we do nothing against any of the laws of God. For this is that charity which is the singleness of a Christian eye. "Ut noverimus omnia opera nostra tunc esse munda, et placere in conspectu Dei, si fiant simplici corde, id est, intentione superna, fine illo caritatis, quia et plenitudo legis caritas est. Oculum ergo hic accipere debemus ipsam intentionem, qua facimus quicquid facimus: quæ si munda fuerit et recta, et illud aspiciens quod aspiciendum est, omnia opera nostra, quæ secundum eam operamur, necesse est bona sint:" so St. Austin. He does all to the glory of God, that does all his works, and speaks all his words, in charity; just as he works for a reward, who does that good thing which shall be rewarded, though, it may be, he thought not of it since his first beginning of his undertaking. To do all things by the rule of God's will, is to do all things for the end of God's glory. For he that walks with his eye upon the rule, is, all the way, careful that he may not dishonour God; and that is a great matter towards it: and he may at least say of himself, "Non ideo tamen eximiam

gloriam meruisse me credo, sed tamen effugisse flagitium [b]:" 'If God hath acquired no honour by my action, I am glad I have not dishonoured him:' and yet he that actually takes care that God be not dishonoured, does obey God, and that is our best love to God, and, in this world, our greatest glorification of him; it is more than all songs and thanksgivings expressed in words or transports of fancy. If we take care that all our actions be obedience, and nothing be against God's will, we glorify God rightly. "Adjice nunc, quod nihil honeste fit, nisi cui totus animus incubuit atque affuit, cui nulla parte sui repugnavit [c];" "That is done honestly that is done with an honest and a whole heart, and is all of a piece, nothing at all repugnant to the rule."

6. He does all things for the glory of God, that does nothing for an evil or a forbidden end: that is, if we take care that there be no foulness or any unlawful thing in our purposes. For if a man does things wisely, he must design some end; and therefore if his end be not evil, then it is a lawful end: and if he studiously declines every end that is evil, he is careful that God be not displeased, that God be not dishonoured, and whatever ends can be besides all ends that are evil, are certainly good, that is, eligible for some good purpose; it comes from God, and to him it returns. The first of these ways is a doing all things to the glory of God actually. The second does it virtually or habitually. The third is a glorifying of God 'interpretative,' by equivalence and interpretation: and the fourth does it 'consecutive,' by way of consequence and acceptation.

7. There is yet another way of doing it, which is so perfect an indication of the designing God's glory, that unless our hearts deceive us, the sign will not; and that is, a beginning all our actions and changes with prayer, and ending them with thanksgiving: that is that which St. Paul [d] calls a doing "all things in the name of the Lord Jesus; giving thanks to God, the Father, by him." For 'to do things in the name of Christ' can signify nothing but a doing them at his word, and by his aid; which when we pray for of God in his name, and then return thanks to God by him, we have

[b] Plin. lib. 3. ep. 11. 4. Gierig, vol. 1. pag. 265.
[c] Seneca, ep. 82. [d] Ubi supra.

evidently directed that action to the divine glory. And this is the full meaning of those words of the Apostle, "Every creature is sanctified by the word of God and prayer:" that is, whatsoever is taken according to God's word, and upon whatsoever so taken we pray for the divine blessing, it is sanctified, and ministers to the good pleasure and glory of God. So that if God be at any end of the action, and be at no end of it displeased, we have secured our intentions: and there will be the less need by scrupulous fears to afflict ourselves concerning actual remembrances and intuitions of the end; since there are so many ways of supply and equivalent performances. For,

8. He that does all that he does, because he supposes God commands him or allows him, and abstains from all things from which he does abstain, only because God hath forbidden those things,—this man's intentions are right, and his actions pointed to a proper end. For then every act is an act of obedience, and that is love, and that is the great instrument of the glorification of God.

9. The second part of this rule, viz. "An evil action done for a good end is unlawful," is plainly enough taught us by St. Paul[e], and I have already given[f] account of such particulars as are under the general consideration. This only is to be added; that an evil done for a good end merely and entirely, is less than that which is not so alleviated; according to that saying of St. Austin, "Pejor est qui concupiscendo quam qui miserando furatur;" "He that steals that he may give alms, is not so bad as he that steals in covetousness and for his own increase."

RULE II.

To do an Action of itself lawful, for temporal Regards, for Ends of Profit, Pleasure, or Honour, is not unlawful, except it be accidentally.

1. The Arabians have an excellent proverb, "Anima boni operis bona est intentio," "A good intention, or a good mind, is the soul of a good work." Now by how much the more

[e] Rom. iii. 8. [f] Book 1. ch. 5. rule 8.

noble that end is, which is the design and purpose of the agent, by so much the more excellent is the action. We ought therefore to consider that every thing that God hath made, is good, and every desire of man which is natural, is also good; and God made amabilities in several objects, and inclinations and tendencies towards them in several faculties; and he that gave us desires to them, intended also that we should obtain and use them, and therefore he also fitted us with means to acquire them. It follows therefore, that those actions,—which proceed from those desires as those desires proceed from God, and tend towards those ends whither God himself, by the measures and laws of creation, hath directed them,—must needs be very innocent and lawful. If God gives riches as a blessing and a reward of piety, it is lawful to desire riches, and to labour for them. If honour be a gift of heaven to them that honour God, then to desire honour and to do actions for that end cannot be criminal. If pleasure be created by God as an instrument to serve many ends of nature and grace itself, then to desire pleasure, and to do actions in order to it, is not against the end of God's glory, because it is not against his will. These things are as evident as a demonstration. All that remains is, that in these we also glorify God; that is, so use them, so desire them, so design them, that they be still left in that place and in that order where God appointed them: that is, that they entertain our intermedial desires, and satisfy the needs of our journey and travel, and please our ministering appetites in order to their service to their superior: that as this life is but a passage to a better, so these desires may minister to a higher, and, by the comforts and satisfactions of this world, promote our affections and purchases of the other. The particulars of which are briefly these.

2. These temporal ends must not fill our affections and divert them from things better and more excellent. "Si ipsa cordis intentio, qua facis quod facis, quæ tibi nota est, sordidatur appetitu rerum terrenarum et temporalium, atque cæcatur, quanto magis ipsum factum, cujus incertus est exitus, sordidum et tenebrosum est?" said St. Austin. Our appetites must not be polluted with earthly affections. Which St. Basil[s] expresses well in answer to that question, How in

[s] In Reg. Brevior. reg. 196.

eating and drinking can we glorify God? "Mensam accedas animo non nimium soluto, et in solum cibum hiante," "Come not to the table with a dissolute mind and a greedy desire." "Say not, 'Bring me, bring me, the meat is mine own, I lick my own plate, I live of my own provisions; and therefore I will please myself, that I may feel myself to live:' you must not so speak, and you must not so eat: but rather revolve in thy mind, 'Inspectorem habeo Deum,' 'God beholds me;' 'I will therefore so eat that no man may be offended, nor God's glory lessened: I will not be the slave of my own belly, or follow its pleasures alone; neither will I live to eat, but eat that I may live, and be enabled to bear the burdens of my life and duty.'" Plainly thus; He that observes the measure of temperance, the limits and ends of nature, and materially serves those ends which he is bound to take care of,—he eats and drinks to God's glory: although he do not formally design by actual intuition this meal to God's glory. Let him so eat that he may be fit to serve God, and that he neither desire nor actually do serve his lust; let his pleasure extend no further than to serve his health and natural and religious ends; that is, let it be intermedial to that end whither the eating itself is designed; and the intention is innocent. For he that chooses this dish rather than another, because it is pleasant, hath not corrupted his intention, if this pleasure serves no more but that intermedial end, which is in a natural or proper order to a further end of God's appointing. That he eats this and not that, his end is pleasure; but because that he eats at all, hath another end, even to enable him to live in duty to God and his neighbour, and to preserve his life according to the measures of charity and duty, this end of pleasure is innocent, because it is natural, and produced by God, and goes on further towards the other ends of God. So that the result is this; Actions may be done innocently for temporal ends, if those temporal ends be but intermedial, and be carried on further according to the purposes of God.

3. We may serve our temporal ends according to our natural or political desires, always provided that we observe those measures which God hath prescribed; for then we are sure they will bear us on to the glory of God; for that is their purpose, and that must be ours. A man may seek to be honoured, but he must not seek it by ill means; he must not

make the service of God to give way to that; his affections must not dwell in that purchase; it must leave no vanity upon his spirit; it must not serve the end of pride; it must be some way or other for God, in the beginning or in the latter end: that is, if it be not actually or virtually designed for God's glory and service, that is, for the good of our neighbour or our own soul, by that means to encourage us in virtue; it must at last be referred to God, and, passing through us, rest upon him. Cajetan, Navarre, and Reginaldus [h], from this instance except two cases; saying, that if the honour be our due, as if we receive it from our subjects and inferiors; or if it be matter of favour and grace, indulged to us by our superiors, it is lawful to receive it without either actually or habitually referring it unto God: that is, we may take honour to ourselves without referring it to God, when that honour is our due, and when it is not our due; when it is paid us in justice, or when it is given us in kindness: which are almost all the cases in the world of receiving honour. But this doctrine ought not to be received, as being infinitely unreasonable and very impious; since in the case of Herod, God declared his anger mightily, because he received honour from his subjects, and did not in so doing glorify God.

4. All designs of profit, pleasure, and honour, must be the less principal; that is, ever subordinate to duty and religion: for although the profit or the pleasure swim uppermost, and be the actual mover to the particular instance, and be more perceived than any actual consideration of the last and noblest end; yet this is not sufficient to condemn the intention, unless it be made the principal; that is, that it be not only more delighted in by the contracts of sense, but preferred also in our understanding part, and our abused reason. Concerning which we may take accounts by the proportions I have formerly described [i]. But in general, the best measure we can take in the regulating this case of conscience is, that we inquire whether we prefer the ultimate or the intermedial end; which trial we may easily make when they cross one another, as it often happens they do in the very instance, and very often in their proportions, circumstances, and degrees. If we will not receive our profit or our pleasure without innocence, our purposes and our hearts are right; only then we are to take

[h] Prax. lib. 12. cap. 3. n. 27. [i] See book 1. ch. 2. rule 5.

care, that the love of our profit do not hinder us in making right judgments concerning lawful and unlawful. For very often we think our affections and our purposes are right, when there is no other cause to think so, but because our understandings are not right.

But for the fuller understanding of our measures in this inquiry, there are some particular cases of conscience to be resolved.

5. Whether it be lawful to serve God for any end less than himself; for riches, for honour, for defence and security of our lives, for health and secular satisfactions: that is, whether it be lawful to make God and his service to be intermedial to the things of the world, the ultimate end to be intermedial, and this to be the ultimate.

6. I answer; It is, at no hand, lawful to do so, if the meaning be such, that if these ends should fail, we should no longer serve God; for then these temporal ends are principal, when without them the service would not be done, and with them alone it would. But it is lawful to serve God for temporal ends, provided that these being but some or all the first incentives of duty, they bear us on indeed to the service of God. For he that serves God for temporal ends, does well; and it matters not where the service of God begins; whether by fear or hope, whether for temporal regards or upon wise discourses; the more imperfect motives are more usual with beginners. But then although it matters not where we begin, yet it is a very great matter, whither these beginnings carry us: for if, upon these first incentives, we do indeed serve God, then our love to God begins from them; and if these imperfect principles be the beginning of our love, they will certainly end in God. But if the question be concerning a single action, whether it be lawful to be done only for a temporal regard, as to get fame or money; I answer, that a single action, done alone for any such consideration with actual rejection, or positive neglect of all other considerations, is, in its whole constitution, criminal: and in this sense those words of Publius Mimus are true, "Malus est vocandus, qui sua causa est bonus;" "He is no good man that does good only for his own sake."—For it is a direct preferring the world before God, and is not a serving God for temporal ends, but wholly a serving ourselves by actions, which in those

circumstances, are no serving of God, but a doing of some material actions of religion in mere hypocrisy. But to serve God for temporal ends is very lawful, 1. when these temporal ends are either the incentive and argument used by God to move us to his service; especially if no other be used, and if the covenant be founded upon temporal promises, as the law of Moses was; 2. or when these temporal ends are but the first and beginning motive, and lead us on to other and better; 3. or when they do actually consist and are conjunct with others; 4. or when they are in true estimate and value subordinate and less principal; or, 5. when the temporal end is first served, and the service is a return of gratitude, and the effect of preceding obligation.

The first of these was the case of them in the old law. The second is the ordinary case of beginners in religion. The third was the case of Moses, who "despised to be called the son of Pharaoh's daughter, because he had an eye to the recompense of reward:" which reward was both temporal and eternal. The fourth is the case of all them who follow after godliness, because it "hath the promises of the world that now is, and of that which is to come;" and that "seek the kingdom of heaven and the righteousness thereof," knowing that "all these things (which they need here) shall be added" to them; added 'ex abundanti,' besides those greater and more glorious promises belonging to the kingdom of grace. And the last was the case of Job. "Doth Job serve God for nought?" No, he had received many blessings, which had endeared and obliged his services. But as in all cases God gives us temporal blessings in order to his service and the communication of eternal; so must our intentions and designs be, ever subordinate, ever apt to yield in case of opposition, but always ministering in case of compatibility and consistency.

7. The second inquiry is, in what sense it is true that God must be served purely for his own sake; and virtue pursued for virtue's sake, and not for low regards, for fear or hope, or secular considerations.

8. To this I answer, that this question hath its principal effect in discourse and contemplation, and but little in practice and in the real events of actions. For the first thing that any man knows of God, is, "that he is, and is a rewarder of

them that diligently seek him:" and no man does choose to serve God but he really is assured and believes he shall have a very great reward: and all the laws of God are established upon promises and arguments of amability and desire [k]. So that to serve God for his own sake, is nothing but an ecstasy of love used by some excellent and contemplative persons, in which they only actually consider the excellences and perfections of God; being built up in the love of God by the instruments of fear and hope and experience, and the Spirit of God: and to serve God without reward, can never be any more than a fiction of law, or fancy, a supposition, and a case put, which can never be reduced to act. But even as the serving of God, without intuition of the reward, is virtually a serving God for love of him; so serving God out of mere love of him, is virtually a serving God for reward.

Diligeris populo, non propter præmia, Cæsar:
Propter te populus præmia, Cæsar, amat [l].

For as no man can wisely hope for the reward but he that does love God; so no man loves God purely and for himself, but he knows also that he is most sure of his reward. It is like St. Paul's wishing himself anathema for his brethren: the greater charity he had in so wishing, the further that thing was from being effected.

9. But yet there is something more material in the answer to this question. For by God and wise men it is intended we should love God purely and for himself; but so he does who loves God above every thing else; for all that supereminent love, by which God is more loved than allthe world, all that love is pure and for himself. He that loves God only for riches or health, loves these better than God: but he that loves God above these, loves him for these and for himself too; for the good that he is, as well as for the good which he does.

10. He is understood to love God for himself, who abstains from sin, not only because it is forbidden, or because it will bring him to mischief, but because he hates it: though, it may be, the prohibition and the fear first brought in that hatred. For this they usually called the love of virtue and honesty; but the other is necessity. "Neque enim minus

[k] See book 2. chap. 1. rule 4.

[l] Mart. lib. 8. 54.

apud nos honestas, quam apud alios necessitas valet," said Pliny [m]. And of this we still receive the greater evidence, by how much the less we are moved with any of the lesser appendages of virtue. "Quam me juvat" (said Secundus [n]) "quod in causis agendis non modo pactione, dono, munere, verum etiam xeniis semper abstinui. Oportet quidem, quæ sunt inhonesta, non quasi illicita, sed quasi pudenda, vitare: jucundum tamen, si prohiberi publice videas, quod nunquam tibi ipse permiseris:" "I am pleased, that in the administration of justice I did not only abstain from bribes and presents, but even from new-years' gifts and gratuities. For we ought to abstain from dishonest things, not only because they are unlawful, but because they are shameful."—But when a man had rather do a base action than suffer trouble, then he gives in evidence, that he loves not God and virtue in any sense principally. So he in the comedy [o],

Pol pudere quam pigere præstat totidem literis.

It is better to blush than be hungry, to be ashamed than to smart. 'Lucrum pudori præstat.' That is the intention and design of these men: they serve virtue as long as virtue will serve their ends of pleasure and profit, and no more: and this is therefore infinitely against the will and glory of God, because it destroys the noblest conjugation of graces that are in Christianity; it makes that there shall be no such thing as self-denial and Christian fortitude, and the greatest love in giving our lives for God, and martyrdom. But the surest conjecture we can make of our intentions when they are complicated, is by the actual cession of one to the other. Theodoric [p] advised well to Marcellus the advocate of his exchequer; "Non quoties superes, sed quemadmodum vincas, inquirimus. Non quæras de potestate nostra, sed potius de jure victoriæ: quando laudabilius à parte fisci perditur, cum justitia, non habetur:" "I have always power on my side, but do you take care that I have right: I am willing my revenue be increased, but at no hand would I have justice violated."—Such men as these, and in these cases, do love God for himself; therefore because they love good actions for other considerations than the temporal reward, they love

[m] Lib. 4. ep. 20.
[n] Lib. 5. ep. 14. 8. Gierig. vol. 1. pag. 44.
[o] Trinum.
[p] In Cassiodore.

God and serve him whether it does them hurt or good, pleasure or displeasure: and that is the true meaning of the old brave philosophers and poets, of loving virtue for virtue's sake; they loved it when it was discountenanced, when it was the enemy of their temporal ends and prosperities; and what they called 'loving virtue for virtue's sake,' the Christian calls 'loving God purely, or for God's sake.'

11. But if we search the Scriptures, we shall but seldom see footsteps of any such metaphysical love, as to love God or do our duty without considerations of hope or fear: and amongst the braver gentiles, and amongst the better Christians in imitations and contentions to excell them, it is further observable, that when they speak of loving virtue for virtue's sake, they only mean to exclude all considerations of sordid ends, of slavish fear of laws, or the acquist of money. But even in their greatest bravery, some of them designed to themselves the reward of honour and an immortal name; and the best of them did rest in the peace of their minds, and that satisfaction which uses to reward a good action even in this life: but by both these they were by God secretly conducted to an expectation of a reward hereafter: and there was no love of God ever so abstracted by any command or expressed intention of God, as to lay aside all intuition of that reward; because, in the receiving of that reward, we are most united unto God, and shall, in the best manner and measures, glorify him for ever.

RULE III.

The End and Intention of a Law is under the Commandment, as much as the Action itself commanded in order to the End.

THIS rule[q] is meant principally of the laws of God; because the end of all these laws is that which is simply and absolutely good, and nearer to the chief end which is primarily designed: and this is an endearment of our services and a monitor to our duty in many particulars not expressed. God hath commanded us to honour our parents; his end is, that we may receive the fruits of government, provision, and or-

[q] Vide lib. 2. ch. 3. rule 4.

der, defence and maintenance, respectively. Upon this account, since we are more bound to comply with the purpose and end of God, than with the means to that end when it is evident and known, because the end is greater in God's account than the means; we are taught that it is the will of God so to expound the words of that commandment, as may best promote that end: and by honour is understood 'all those duties, whereby the parent is confessed honourable;' and by parents is meant 'all that are in the place of parents, and who minister to the ends of government.'

2. Now this must not be understood, as if God did design the end, and cared not for the means; for he is the best chooser of the instruments also of his own service and his own glory: and though the end is better than the means, yet those are the best means, which God hath appointed: but if we cannot obtain the means, then it will suffice that the end be acquired, as well as we can, by other instruments symbolical. Thus we are bound to profess the faith of Christ in the susception of baptism: but if we cannot obtain baptism, which is the usual and appointed publication of our faith, yet we are obliged still to pursue the end, and confess the faith of Christ by profession, by holy living, by declaring our desires of baptism, by dying for Christ if it be required.

3. This also hath effect upon the instances of our duty so as to enforce the sincerity and ingenuity of them, and to make them really useful in order to their proper ends. Thus we must confess our sins, because we will forsake them; pray to God for his grace, because we intend to make use of it; not resting in forms of godliness, but living in the power of it. Diodorus lent to Caius ten Attic talents; but Caius is not able to pay a drachm, and therefore Diodorus forgives him; that he may be thanked, indeed,—for nothing.

Condones aut sustineas, Diodore, necesse est:
Nam tibi quod solvat, non habet arca mea.

But if Diodorus will be truly charitable, let him lend to Caius so much more; for he serves no end of charity that lets that alone, which, he knows, he can never get.

Ridiculè hæc homines, nequeunt quæ vendere, donant[r].

[r] Avien. fab.

I deny not but it may, accidentally, serve the ends of charity to forgive him that is insolvent; it may free him from fear of trouble, and make his life comfortable; and he that does it upon these considerations, serves the end of the commandment. But he that forgives it for no other reason but because he cannot have it, he does nothing at all; for though he perform the instance of the law, yet he does nothing towards the end of it.

4. But in human laws the case is something different; for we are only obliged to do nothing against the end of the law: for in this sense is that of the law[s] to be understood; "Fines mandati sunt diligenter custodiendi." "The ends of the law are with diligence to be kept."—But we are no otherwise bound to promote that end, than by observing of such means as are appointed; that is, if the end be only civil and human, and do not also include a duty of religion commanded by God. If the church command a fasting-day in order to a corporal affliction of ourselves, and an external ministry of repentance, we are bound to obey it; and though that fasting-day should accidentally be no affliction, yet by virtue of that law we are no further obliged to afflict ourselves. But we are indeed obliged to nothing that shall be against the end of that law. "Finem certum respicientia non debent contrarium operari[t]." We must not caress ourselves with delicious juice of fishes and costly wines upon a fish-day. The reason of these things is briefly this. In human laws the end is not always good; or if it be, it is not always necessary; or if it were, in any degree, necessary,—yet the necessity of it is to be judged by the supreme, and is no otherwise to be estimated necessary by the subject, than by the conjecture, the proportion and efficacy of the means or instrument appointed by the supreme to effect that end: and therefore we are bound to restrain our liberties no more than the law restrains them; and we need not be wiser than the laws: but he that goes against the mind of the law, upbraids the insufficiency of her provisions, and shows that he obeys with an ill will.

5. But the laws of God have it in their intention to regulate all the purposes and whole intention of the subject; and therefore our obedience cannot be measured only by the

[s] L. Diligenter, fines mandati. [t] L. Quod Favore, C. de Legibus.

instance of the precept, but by the purpose of it: and because we must serve God with all our heart and all our skill, our duty must be coextended with all the holiness and designs of God in every commandment; that is, we must do all that which, we really suppose, God would have to be done in every of his laws, whether it be expressed or only implied. For he that intends the just end of all human actions, that is, the glory of God, can be assured that his purposes are right, when he measures them by their tendency to the end, better than by their commensuration with the expressed means.

6. Χρυσᾶ δὲ οὐρανία, said Philostratus. That is the sum of all; we must take care that the end of our actions be all of gold. If they be designed well, they are likely to end well; for this is truly χρυσῆν ἐπιτιθέναι κορώνην[u], for in the service of God, a golden head shall never have the feet of clay.

[u] Eustath. in Iliad. 4.

Nomini tuo da gloriam.

CLERUS DOMINI;

OR,

A DISCOURSE

OF THE

DIVINE INSTITUTION, NECESSITY, SACREDNESS, AND SEPARATION,

OF THE

OFFICE MINISTERIAL.

TOGETHER WITH THE

NATURE AND MANNER OF ITS POWER AND OPERATION.

WRITTEN

BY THE SPECIAL COMMAND OF KING CHARLES I.

THE

DIVINE INSTITUTION AND NECESSITY

OF THE

OFFICE MINISTERIAL.

SECT. I.

1. When several nations and differing religions have, without any famous mutual intercourse, agreed upon some common rites, and forms of religion; because one common effect cannot descend from chance, it is certain they come to them by reason, or tradition from their common parents, or by imitation; something that hath a common influence. If reason be the principle, then it is more regular and lasting, and admits of no other variety, than as some men grow unreasonable, or that the reason ceases. If tradition be the fountain, then it is not only universal, and increases as the world is peopled, but remains also so long as we retain reverence to our parents, or that we do not think ourselves wiser than our forefathers. But these two have produced customs and laws of the highest obligation: for whatsoever we commonly call the law of nature, it is either a custom of all the world, derived from Noah or Adam; or else it is therefore done, because natural reason teaches us to do it in the order to the preservation of ourselves and the public.

2. But imitation of the customs of a wise nation, is something less, and yet it hath produced great consent in external rites and offices of religion. And since there is in ceremonies so great indifferency,—there being no antecedent law to determine their practice, nothing, in their nature, to make them originally necessary,—they grow into a custom or a law, according as they are capable. For if a wise prince, or governor, or a nation, or a famous family, hath chosen rites of common religion, such as were consonant to the analogy of his duty, expressive of his sense, decent in the expression,

grave in the form, or full of ornament in their representment; such a thing is capable of no greater reason and needs no greater authority, but hath been, and may reasonably enough be, imitated, upon the reputation of their wisdom, and disinterested choice, who, being known wise persons, or nations, took them first into their religious offices.

3. Thus the Jews and the Gentiles used [a] white garments in their holy offices, and the Christians thought it reasonable enough from so united example to do so too. Example was reason great enough for that. The [b] gentile-priests were forbid to touch a dead body, to [c] eat leavened bread, to [d] mingle with secular employments during their attendance in holy offices; these they took up from the pattern of the Jews, and professed it reasonable to imitate a wise people in the rituals of their religion. The gentile-priests used ring and staff and mitre, saith Philostratus [e]: the primitive bishops did so too; and, in the highest detestation of their follies, thought they might wisely enough imitate their innocent customs and priestly ornaments, and hoped they might better reconcile their minds to the Christian religion by compliance in ceremonials, than exasperate them by rejecting their ancient and innocent ceremonies: for so the apostles invited and enticed Judaism into Christianity.

3. (2.) And Tertullian [f] complains of the devil's craft, who, by imitating the Christian rites, reconciled men's minds with that compliance to a more charitable opinion of the gentile superstition: "The devil intending to draw the professors of truth to his own portion, or to preserve his own in the same fetters he first put upon them, imitates the rites of our religion, adopting them into his superstition. He baptizes some of his disciples, and when he initiates them to the

[a] Valer. Maxim. lib. 1. cap. 1. Philost. lib. 2.
[b] Dion. Hist. lib. 54. [c] A. Gell. lib. 10. cap. 15.
[d] Ibid. [e] Lib. 3.
[f] De Præscript. cap. 40:—Hujus sunt partes invertendi veritatem, qui ipsas quoque res sacramentorum divinorum in idolorum mysteriis æmulatur. Tingit et ipse quosdam, utique credentes et fideles suos: expiationem delictorum de lavacro re-promittet, et sic adhuc initiat Mithræ: signat illic in frontibus milites suos, celebrat et panis oblationem, et imaginem resurrectionis inducit, et sub gladio redimit coronam. Quid, quod et summum pontificem in suis nuptiis statuit? habet et virgines, habet et continentes. Qui ergo ipsas res, de quibus sacramenta Christi administrantur, tam æmulanter affectavit exprimere in negotiis idololatriæ, utique et idem et eodem ingenio gestiit, et petiit instrumenta quoque divinarum rerum et sanctorum Christianorum sensum de sensibus, verba de verbis, parabolas de parabolis, profanæ et æmulæ fidei attemperare.

worship of Mithra, promises them pardon of sins, by that rite; he signs his soldiers in their foreheads, he represents the oblation of bread, and introduces representments of the resurrection, and laboriously gets martyrs to his cause. His priests marry but once; he hath his virgins, and his abstemious and continent followers: that what Christians love and the world commends in them, being adopted into the rituals of idolatry, may allure some with the beauty and fair imagery, and abuse others with colour and fantastic faces."

4. And thus also all wise men that intended to persuade others to their religion, did it by retaining as much as they innocently could of the other, that the change might not be too violent, and the persons be more endeared by common rites, and the relation and charity of likeness and imitation. Thus did the church and the synagogue; thus did the gentiles both to the Jews and to the Christians; and all wise men did so.

5. The gentiles offered first-fruits[g] to their gods, and their tithes to Hercules, kept vigils and anniversaries[h], forbade marriages without the consent of parents, and clandestine contracts; these were observed with some variety according as the people were civil or learned[i]; and according to the degree of the tradition, or as the thing was reasonable, so these customs were more or less universal.

6. But when all wise people, nay when absolutely all the world, have consented upon a rite, it cannot derive from a fountain lower than the current, but it must either be a command, which God hath given to all the world; and so Socrates in Xenophon[k]: "Quod ab omnibus gentibus observatum est, id non nisi à Deo sancitum esse dicendum est"); or a tradition; or a law descending from our common parents; or a reason derived from the nature of things. There cannot in the world be any thing great enough to take away such a rite, except an express divine commandment: and a man, by the same reason, may marry his nearest relative, as he may deny to worship God by the recitation of his praises and excellences; because reason and a very common tradition have made almost all the world consent in these two things, that we must abstain from the mixtures of our nearest kin-

[g] Censor. de Die Natal. cap. 1.
[h] Sueton. in Vespas.
[i] Liv. decad. 1. lib. 10.
[k] Lib. 4. de Factis et Dict. Socr.

dred, and that we must worship God by recounting and declaring excellent things concerning him.

7. I have instanced in two things, in which I am sure to find the fewest adversaries (I said the fewest; for there are some men which have lost all humanity): but these two great instances are not attested with so universal a tradition and practice of the world, as this that is now in question. For in some nations they have married their sisters, so did the Magi among the Persians: *μίγνυνται οἱ Μάγοι μητράσι, καὶ ἀδελφαῖς μίγνυσθαι θεμιτὸν*, says Tatianus in Clemens Alexandrinus[l], and Bardisanes Syrus in Eusebius[m]. And the Greeks worshipped Hercules by railing, and Mercury by throwing stones at him. But there was never any people but had their priests and presidents of religious rites, and kept holy things within a mure, that the people might not approach to handle the mysteries: and therefore besides that it is a recession from the customs of mankind, and charges us with the disrespect of all the world (which is an incuriousness next to infinite), it is also a doing against that which all the reason of all the wise men of the world have chosen antecedently, or 'ex post facto:' and he must have a strange understanding, who is not persuaded by that which hath determined all the world.

7. (2.) For religion cannot be at all in communities of men, without some to guide, to minister, to preserve, and to prescribe, the offices and ministries:—what can profane holy things but that which makes them common? and what can make them common more than when common persons handle them, when there is no distinction of persons in their ministration? For, although places are good accessories to religion, yet in all religions, they were so accidental to it, that a sacrifice might hallow the place, but the place (unless it were naturally impure) could not desecrate the sacrifice: and therefore Jacob worshipped upon a stone, offered upon a turf; and the ark rested in Obed-Edom's house, and was holy in Dagon's temple; and hills and groves, fields and orchards, according to the several customs of the nations, were the places of address: but a common person ministering, was so near a circumstance, and was so mingled with the action, that since the material part and exterior actions of religion could be

[l] Stromat. 3. [m] Lib. 4. Præpar. Evangel.

acted and personated by any man, there was scarce any thing left to make it religious, but the attrectation of the rites by a holy person. A holy place is something; a separate time is something; a prescript form of words is more; and separate and solemn actions are more yet; but all these are made common by a common person, and therefore, without a distinction of persons, have not a natural and reasonable distinction of solemnity and exterior religion.

8. And indeed it were a great disreputation to religion, that all great and public things, and every artifice and profitable science, should, in all the societies of men, be distinguished by professors, artists, and proper ministers; and only religion should lie in common, apt to be bruised by the hard hand of mechanics, and sullied by the ruder touch of undiscerning and undistinguished persons; for although the light of it shines to all, and, so far, every man's interest is concerned in religion,—yet it were not handsome that every man should take the taper in his hand; and religion is no more to be handled by all men, than the laws are to be dispensed by all, by whom they are to be obeyed; though both in religion and the laws, all men have a common interest.

9. For since all means must have some equality or proportion towards their end, that they may, of their own being, or by institution, be symbolical, it is but reasonable that by elevated and sublimed instruments we should be promoted towards an end supernatural and divine. Now besides, that of all the instruments of distinction, the person is the most principal and apt for the honour of religion (and to make our religion honourable is part of the religion itself), it is also apt for the uses of it, such as are, preserving the rights, ordering decent ministration, dispensing the laws of religion, judging causes, ceremonies, and accidents; and he that appoints not officers to minister his religion, cares not how it is performed; and he that cares so little, will find a great contempt pass upon it, and a cheapness meaner than of the meanest civil offices; and he that is content with that, cares not how little honour God receives, when he presents to him a cheap, a common, and a dishonourable religion.

10. But the very natural design of religion forces us to a distinction of persons, in order to the ministration; for besides that every man is not fit to approach to God with all

his 'sordes,' and adherent indispositions; an assignment in reason must be made of certain persons, whose calling must be holy, and their persons taught to be holy, by such a solemn and religious assignment; that those persons,—being made higher than the people by their calling and religion, and yet our brethren in nature,—may be intermedial between God and the people, and present to God the people's needs, and be instrumental to the conveying God's blessing upon those whose fiduciaries they are. This last depends upon God's own act and designation, and therefore must afterward be proved by testimonies of his own, that he hath accepted such persons to such purposes; but the former part we ourselves are taught by natural reason, by the rules of proportion, by the honour we owe unto religion, by the hopes of our own advantages, and by the distance between God and us towards which we should thrust up persons as high as they are capable. And that all the world hath done prudently in this, we are confirmed by God's own act, who knowing it was most agreeable not only to the constitution of religion and of our addresses to God, but to our mere necessities also, did, in his glorious wisdom, send his Son, and made him apt to become a mediator between himself and us, by clothing him with our nature, and decking him with great participation of his own excellences, that he might do our work, the work of his own human nature, and by his great sanctity and wisdom approach near to God's mercy-seat, whither our imperfections and sins could not have near access.

11. And this consideration is not only good reason but true divinity, and was a consideration in the Greek church, and affixed to the head of a prayer as the reason of their addresses to God in designing ministers in religion: "O Lord God, who, because man's nature cannot of itself approach to thy glorious Deity, hast appointed masters and teachers of the same passions with ourselves, whom thou hast placed in thy throne (viz. in the ministry of the kingdom) to bring sacrifices and oblations in behalf of thy people[n]," &c. And indeed if the greatness of an employment separates persons from the 'vulgus,' either we must think the immediate offices

[n] Εὐχολ. In Ordinat. Episc. Κύριε, ὁ Θεὸς ἡμῶν, ὁ διὰ τὸ μὴ δύνασθαι τὴν ἀνθρώπου φύσιν τὴν τῆς θεότητός σου ὑπερεχεῖν οὐσίαν, τῇ σῇ οἰκονομίᾳ ἡμιοσεβεῖς ἡμῶν διδασκάλους καταστήσας τὸν σὸν ἐπίσκοπας θρόνῳ εἰς τὸ ἀναφέρειν σοι θυσίας καὶ προσφορὰς ὑπὲρ πάντος τοῦ λαοῦ σου, &c.

of religion and the intercourse with God to be the meanest of employments, or the persons, so officiating, to receive their estimate according to the excellency of their offices.

12. And thus it was amongst the Jews and Gentiles before Christ's time; amongst whom they not only separated persons for the service of their gods respectively, but chose the best of men and the princes of the people to officiate in their mysteries, and adorned them with the greatest honours and special immunities. Among the Jews, the priesthood was so honourable, that although the expectation, which each tribe had of the Messias, was reason enough to make them observe the law of distinct marriages, yet it was permitted to the tribe of Levi to marry with the kingly tribe of Judah, that they also might have the honour and portion of the Messias's most glorious generation; and for the priesthood of Aaron it was *γέρας ἐξαίρετον, οὐκ ἐπίγειον, ὀλύμπιον κτῆμα*, saith Philo; "a celestial honour not an earthly, a heavenly possession;" and it grew so high and was so naturalized into that nation to honour their priests and mystic persons, that they made it the pretence of their wars and mutinies against their conquerors. "Honor sacerdotii firmamentum potentiæ assumebatur," saith Tacitus, speaking of their wars against Antiochus; "The honour of their priesthood was the strength of their cause, and the pretence of their arms;" and all the greatest honour they could do to their priesthood, they fairly derived from a divine precept, that 'the prince, and the people, and the elders, and the synagogue, should go in and out [that is, should commence and finish their greatest and most solemn actions] at the voice and command of the priest.'—And therefore King Agrippa did himself honour in his epistle to Caius Cæsar[o]; "I had kings that were my ancestors, and some of them were high-priests, which dignity they esteemed higher than their royal purple, believing that priesthood to be greater than the kingdom, as God is greater than men."

13. And this great estimate of the ministers of their religion derived itself from the Jews unto their enemies the Philistines, that dwelt upon their skirts; insomuch that in

[o] Πάππων καὶ προγόνων βασιλέων ἔλαχον, ὧν οἱ πολλοὺς ἐλέγοντο ἀρχιερεῖς. τὴν βασιλείαν τῆς ἱερωσύνης; ἐν δευτέρᾳ τάξει τιθέμενοι, καὶ νομίζοντες ὅσῳ θεὸς ἀνθρώπων διαφέρει, κατὰ τὸ κρεῖττον τοσούτῳ καὶ βασιλείας ἱερωσύνην.

the hill of God where there was a garrison of the Philistines, there was also a college of the prophets newly instituted by Samuel[p] (from whom, because he was their founder, St. Peter[q] reckoned the ordinary descent from Samuel), unharmed and undisturbed, though they were enemies to the nation; and when David fled from Saul, he came to Naioth[r] where the prophets dwelt; and thought to take sanctuary there, knowing it was a privileged place; there it was where Saul's messengers and Saul himself turned prophets, that they might estimate the place and preserve its privilege, himself becoming one of their society.

14. For this was observed amongst all nations, that besides the band of humanity forbidding soldiers to touch unarmed people, as, by all religions and nations, priests ever were, the very sacredness of their persons should exempt them from violence, and the chances or insolences of war. Thus the Cretians did to their priests and to the *κατακαῦται*, 'the persons who were appointed for the burial of the dead,' the same with *κοπιᾶται*, or 'fossarii' in the primitive church, no soldiers durst touch them; they had the privilege of religion, the immunity of priests, "hos quæ necabant, non erant puræ manus;" and therefore it grew up into a proverb, when they intended to express a most destructive and unnatural war, *οὐδὲ πυρφόρος ἐλείφθη*, 'not so much as the priests that carried fire before the army, did escape;' the same with that in Homer[s] in the case of messengers,

> Οὐκέτ' ἔπειτ' οἴω οὐδ' ἄγγελον ἀπονέεσθαι
> Ἄψοῤῥον ποτὶ ἄστυ ———.

'Not so much as a messenger returned into the city.'—These were sacred, and therefore exempt persons: and so were the Elei among the Grecians, as being sacred to Jupiter, safe from the hostility of a professed enemy; the same which was observed amongst the Romans;

> ———— Quis homo est tantâ confidentiâ,
> Qui sacerdotem audeat violare?—
> At malo cum magno suo fecit Hercle[t].

But this is but one instance of advantage.

[p] 1 Sam. x. 5. 10.
[q] Acts, iii. 24.
[r] 1 Sam. xix. 18.
[s] Il. μ. 74.
[t] Plautus in Rudent. act. 3. sc. 2. 31, Ernesti, vol. 2. p. 307.

15. The gentiles having once separated their priests, and affixed them to the ministries of religion, thought nothing great enough either to express the dignity of their employment, or good enough to do honour to their persons. And it is largely discoursed of by Cicero[u], in the case of the Roman augurs: "Maxumum autem et præstantissimum in republica jus est augurum, et cum auctoritate conjunctum. Neque verò hoc, quia sum ipse augur, ita sentio, sed quia sic existumare nos est necesse. Quid enim majus est, si de jure quærimus, quàm posse à summis imperiis et summis potestatibus comitiatus et concilia, vel instituta dimittere, vel habita rescindere? Quid magnificentius, quàm posse decernere, ut magistratu se abdicent consules? quid religiosius, quam cum populo, cum plebe agendi jus aut dare, aut non dare?" It was a vast power these men had, to be in proportion to their greatest honour: they had power of bidding and dissolving public meetings, of indicting solemnities of religion; just as the Christian bishops had, in the beginning of Christianity; they commanded public fasts, at their indiction only they were celebrated. "Benè[x] autem quod et episcopi universæ plebi mandare jejunia assolent; non dico industriâ stipium conferendarum, ut vestræ capturæ est, sed interdum, et aliquâ sollicitudinis ecclesiasticæ causâ." The bishops also called public conventions ecclesiastical: "Agantur[y] præcepta per Græcias illas certis in locis concilia ex universis ecclesiis, per quæ et altiora quæque in commune tractantur, et ipsa repræsentatio totius nominis Christiani magna veneratione celebratur." It was so in all religions; the 'antistites,' the 'presidents' of rites and guides of consciences had great immissions and influences into the republic, and communities of men; and they verified the saying of Tacitus[z]; "Deûm munere summum pontificem, etiam summum hominem esse, non æmulatione, non odio, aut privatis affectionibus obnoxium;" "The chief priest was ever the chief man, and free from the envies, and scorns, and troubles, of popular peevishness and contumacy;" and that I may use the expression of Tacitus[a]; "Utque glisceret dignatio sacerdotum" (for all the great traverses of the republic were in

[u] Cicero, lib. 2. de Leg. cap. 12. Davis et Rath. pag. 153.
[x] Tertul. adv. Psychicos, cap. 13.
[y] Ibid.
[z] Lib. 3. Annal.
[a] Lib. 4. Annal.

their disposing), "atque ipsis promptior animus foret ad capessendas ceremonias," the very lower institutions of their religion were set up with the marks of special laws and privileges; insomuch that the seat of the empress in the theatre was among the vestal virgins.

16. But the highest had all that could be heaped upon them, till their honours were as sublimed as their functions. Amongst the Ethiopians [b] the priests gave laws to their princes, and they used their power sometimes to the ruin of their kings, till they were justly removed. Among the Egyptians[c], the priests were the judges: so they were in Athens, for the Areopagites were priests: and the Druids, among the Gauls, were judges of murder, of titles of land, of bounds and inheritances; "magno apud eos sunt honore, nam ferè de omnibus controversiis publicis privatisque constituunt;" and for the Magi of Persia and India, Strabo reports, ἐκείνους συνεῖναι τοῖς αὐτόθι βασιλεῦσι ὡς τοὺς Μάγους τοῖς Πέρσαις ὑφηγουμένους τὰ περὶ τοῦ θεοῦ, "they conversed with kings," meaning, they were their counsellors and guides of their consciences. And Herodotus, in Eustathius [d], tells us of the ταγμα τι θεῖον ἐν Δέλφοις οἱ θεόπροποι, "the divine order of prophets or priests in Delphos:" ἐσιτοῦντο μετὰ τῶν βασιλέων, "they did eat of the public provisions together with kings."—By these honours they gave testimony of their religion, not only separating certain persons for the service of their temples, but also separating their condition from the impurities and the contempt of the world: as knowing, that they who were to converse with their gods, were to be elevated from the common condition of men and vulgar miseries.

— ἐξ οὗ
Διὸς Ἰδαίου μύστης γεγώμαν,—
Πάλλευκα δ' ἔχων εἵματα, φεύγω
Γένεσίν τε βροτῶν [e].

"As soon as I was made a priest of Idæan Jupiter, all my garments were white, and I declined to converse with mortals."—"Novæ sortis oportet illum, qui, jubente Deo, canat," said Seneca; "He had need be of a distinct and separate condition, that sings to the honour, and at the command, of God." Thus it was amongst the Jews and heathens.

[b] Strab. Geog. lib. 17.

[c] Ælian. Var. Hist. lib. 14. cap. 34. Joseph. Antiq. lib. 14. cap. 16. Cæsar. Com. de Bello. Gal. lib. 6.

[d] In Il. α.

[e] Eurip. Cretens. Priestley's edition, vol. 7. pag. 599.

SECT. II.

1. Now if Christian religion should do otherwise than all the world hath done, either it must be because the rites of Christianity are of no mystery and secret dispensation, but common actions of an ordinary address, and cheap devotion; or else, because we undervalue all religion, that is, because indeed we have nothing of it: the first is dishonourable to Christianity, and false as its greatest enemy: the second is shame to us: and both so unreasonable and unnatural, that if we separate not certain persons for the ministries of Christianity, we must confess we have the worst religion, or that we are the worst of men.

2. But let us consider it upon its proper grounds. When Christ had chosen to himself twelve apostles, and was drawing now to the last scene of his life, he furnished them with commissions and abilities to constitute and erect a church, and to transmit such powers as were apt for its continuation and perpetuity. And therefore to the apostles in the capacity of church-officers,—he made a promise, "that he would be with them to the end of the world;" they might personally be with him until the end of the world; but he could not be here with them, who, after a short course run, was to 'go hence, and be no more seen:' and therefore, for the verification of the promise, it is necessary that since the promise was made for the benefit of the church, and to them as the ministers of the benefit,—so long as the benefit was to be dispensed, so long they were to be succeeded to, and therefore assisted by the holy Jesus according to the glorious promise: Οὐ μόνοις δὲ τοῦτο τοῖς ἀποστόλοις ὑπέσχετο τὸ συνεῖναι αὐτοῖς, ἀλλὰ καὶ πᾶσιν αὐτοῦ ἁπλῶς τοῖς μαθηταῖς· οὐ γὰρ δήπου οἱ ἀπόστολοι ἄχρι τῆς συντελείας ἔμελλον ζῆν· καὶ ἡμῖν οὖν καὶ τοῖς μεθ' ἡμᾶς ἐπισχνεῖται τοῦτο. "Not only to the apostles, but absolutely and indefinitely to all Christ's disciples, their successors, he promised to abide for ever, even to the consummation of the world, to the whole succession of the clergy:" so Theophylact upon this place.

3. And if we consider what were the power and graces Jesus committed to the dispensation of the apostles, such as were not temporary, but lasting, successive, and perpetual,

we must also conclude the ministry to be perpetual. I instance, first, in *the power of "binding and loosing," remitting and retaining sins,* which Christ gave them together with his breathing on them the Holy Spirit, and a legation, and a special commission, as appears in St. John[e]; which power, what sense soever it admits of, could not expire with the persons of the apostles, unless the succeeding ages of the church had no discipline or government, no scandals to be removed, no weak persons offended, no corrupt members to be cut off, no heretics rejected, no sins, or no pardon. And that were more a heresy than that of the Novatians: for they only denied this ministry in some cases; not in all: saying 'priestly absolution was not fit to be dispensed to them, who, in time of persecution, have sacrificed to idols: Θεοῦ γὰρ εἶναι τῆς ἐξουσίας μόνου ἔλεγε, καὶ οὐκ ἱερέων, πρυτανεύειν τούτοις τὴν ἄφεσιν. Τούτοις, "*To these* only," pardon is to be dispensed without the ministry of the priest; "to these" who were μετὰ τὸ βάπτισμα ἐπιθύσαντες, sacrificers, and mingled 'the table of the Lord with the table of devils[f].' Against other sinners they were not so severe. But however, so long as that distinction remains, 'of sins unto death,' and 'sins not unto death;' there are a certain sort of sins which are remediable, and cognoscible, and judicable, and a power was dispensed to a distinct sort of persons, to remit or retain those sins; which therefore must remain with the apostles for ever, that is, with their persons first, and then with the οἱ ἐκ διαδοχῆς 'with their successors;' because the church needs it for ever; and there was nothing in the power, that, by relating to the present and temporary occasion, did insinuate its short life and speedy expiration.

4. In execution of this power and pursuance of this commission, for which the power was given, the apostles went forth; and all they upon whom this signature passed, οὓς τὸ πνεῦμα τὸ ἅγιον ἔθετο εἰς διακονίαν ταύτην, executed this power in appropriation and distinct ministry: it was 'the sword of their proper ministry;' and St. Paul does almost exhibit his commission and reads the words, when he puts it in execution, and does highly verify the parts and the consequents of this argument; "God hath reconciled us to himself by Christ Jesus, and hath given to us the ministry of reconciliation;"

[e] John, xx. 21.
[f] Vide Socrat. lib. 1. cap. 7. Sozom. lib. 1. cap. 20.

and it follows, " now then we are ambassadors for Christ." The ministry for reconciliation is an appropriate ministry; " it is committed to us;" "we are ambassadors," it is appropriate by virtue of Christ's mission and legation. " He hath given to us," he hath made and deputed certain ambassadors, whom he hath sent upon the message and ministry of reconcilement: which is a plain exposition of the words of his commission before recorded[s].

5. And that this also descended lower, we have the testimony of St. James, who advises the sick person " to send for the elders of the church, that they may pray over him;" that they may anoint him, that in that society there may be 'confession of sins by the clinic or sick person, and that after these preparatives, and in this ministry, his sins may be forgiven him.' Now that this power fell into succession, this instance proves; for the elders were such, who had not the commission immediately from Christ, but were μεταγενέστεροι, they were fathers of the people, but 'sons of the apostles,' and therefore it is certain the power was not personal, and merely apostolical, but derived upon others by such a communication, as gives evidence the power was to be succeeded in. And when went it out? when the anointing and miraculous healing ceased? There is no reason for that. Forgiveness of sins was not a thing visible, and therefore, could not be of the nature of miracles to confirm the faith and Christianity first, and, after its work was done, return to God that gave it; neither could it be only of present use to the church, but as eternal and lasting as sin is: and therefore there could be nothing in the nature of the thing to make it so much as suspicious, it was presently to expire.

6. To which also I add this consideration, that the Holy Ghost,—which was to enable the apostles in the precise office apostolical, as it was an office extraordinary, circumstantionate, definite, and to expire, *all that* was promised should descend upon them after Christ's ascension, and was verified in Pentecost; for to that purpose to bring all things to their mind, all of Christ's doctrine and all that was necessary of his life and miracles, and a power from above to enable them to speak boldly and learnedly, and with tongues,—all that, besides the other parts of ordinary power, was given them ten days

[s] John, xx. 21.

after the ascension. And therefore the breathing the Holy Ghost upon the apostles in the octaves of the resurrection, and this mission with such a power, was their ordinary mission,—a sending them as ordinary pastors and curates of souls, with a power to govern ('binding and loosing' can mean no less: and they were the words of the promise), with a power to minister reconciliation (for so St. Paul expounds 'remitting and retaining'): which two were the great hinges of the gospel, the one to invite and collect a church,—the other, to govern it; the one, to dispense the greatest blessing in the world,—the other, to keep them in capacities of enjoying it. For since the Holy Ghost was now actually given to these purposes here expressed, and yet, in order to all their extraordinaries and temporary needs, was promised to descend after this, there is no collection from hence more reasonable, than to conclude all this to be part of their commission of ordinary apostleship, to which the ministers of religion were, in all ages, to succeed. In attestation of all which, who please may see the united testimony of St. Cyril[h], St. Chrysostom[i], St. Ambrose[k], St. Gregory[l], and the author[m] of the Questions of the Old and New Testament,—who, unless by their calling shall rather be called persons interest, than by reason of their famous piety and integrity, shall be accepted as competent,—are a very credible and fair representment of this truth, and that it was a doctrine of Christianity, that Christ gave this power to the apostles for themselves and their successors for ever; and that therefore as Christ in the first donation, so also some churches in the tradition of that power, used the same form of words, intending the collation of the same power, and separating persons for that work of that ministry. I end this with the counsel St. Austin gives to all public penitents; "Veniat ad antistites, per quos illis in ecclesia claves ministrantur, et à præpositis sacrorum accipiant satisfactionis suæ modum;" "Let them come to the presidents of religion, by whom the keys are ministered, and from the governors of holy things let them receive those injunctions, which shall exercise and signify their repentance.

[h] In John, xx. [i] Ibid. [k] In 1 Tim. iv.
[l] Homil. 25. in Evang. [m] Quæst. 59.

SECT. III.

1. THE *second power* I instance in, is '*preaching the gospel;*' for which work he not only at first designed apostles, but others also were appointed for the same work for ever, to all generations of the church. This commission was signed immediately before Christ's ascension[n]; "All power is given to me in heaven and in earth. Go ye therefore and teach all nations, teaching them to observe all things whatsoever I have commanded you; and lo I am with you always, even unto the end of the world." First, Christ declared his own commission; "all power is given him into his hand:"—he was now made king of all the creatures, and prince of the catholic church; and therefore as it concerned his care and providence to look to his cure and flock, so he had power to make deputations accordingly. "Go ye therefore,"—implying, that the sending them to this purpose was an issue of his power, either because the authorizing certain persons was an act of power;—or else because the making them doctors of the church and teachers of the nations, was a placing them in an eminency above their scholars, and converts, and so also was an emanation of that power, which, derived upon Christ from his Father, from him descended upon the apostles. And the wiser persons of the world have always understood, that a power of teaching was a presidency and authority; for since all dominion is naturally founded in the understanding,—although civil government, accidentally and by inevitable public necessity, relies upon other titles, yet where the greatest understanding and power of teaching are, there is a natural pre-eminence and superiority, 'eatenus,' that is, according to the proportion of the excellency. And therefore, in the instance of St. Paul, we are taught the style of the court, and "disciples sit at the feet" of their masters, as he did at the feet of his tutor Gamaliel,—which implies duty, submission, and subordination. And indeed it is the highest of any kind, not only because it is founded upon nature, but because it is a submission of the most imperious faculty we have, even of that faculty which, when we are removed from our tutors, is submitted to none but God; for no man hath power over the

[n] Matt. xxviii. 19, 20.

understanding faculty; and therefore so long as we are under tutors and instructors, we give to them that duty, in the succession of which claim, none can succeed but God himself, because none else can satisfy the understanding but he.

2. Now then because the apostles were created doctors of all the world, 'hoc ipso' they had power given them over the understandings of their disciples, and they were therefore fitted with an infallible spirit, and grew to be so authentic, that their determination was the last address of all inquiries in questions of Christianity: and although they were not absolute lords of their faith and understandings, as their Lord was,—yet they had, under God, a supreme care and presidency, to order, to guide, to instruct, and to satisfy, their understandings; and those, whom they sent out upon the same errand, according to the proportion and excellency of their spirit, had also a degree of superiority and eminency; and therefore they who were κοπιῶντες ἐν διδασκαλίᾳ, "labourers in the word and doctrine," were also προεστῶτες πρεσβύτεροι, "presbyters that were presidents" and rulers of the church. And this eminency is for ever to be retained, according as the unskilfulness of the disciple retains him in the form of catechumens; or as the excellency of the instructor still keeps the distance; or else, as the office of teaching, being orderly and regularly assigned, makes a legal, political, and positive authority, to which all those persons are, for order's sake, to submit, who, possibly, in respect of their personal abilities, might be exempt from that authority.

3. Upon this ground it is, that learning amongst wise persons is esteemed a title of nobility and secular eminency: "Ego quid aliud munificentiæ tuæ adhibere potui, quàm studia, ut sic dixerim, in umbra educata: et quibus claritudo venit," said Seneca[o] to Nero. And Aristotle[p] and A. Gellius[q] affirm, that 'not only excellency of extraction, or great fortunes, but learning also makes noble;' "circum undique sedentibus multis doctrinâ, aut genere, aut fortunâ nobilibus viris." And therefore the lawyers[r] say, that "if a legacy be given 'pauperi nobili,'—the executors, if they please, may give it to a doctor." I only make this use of it, that they who are

[o] Apud Tacitum, lib. 14. cap. 53. [p] Arist. lib. 4. Polit. cap. 4.
[q] A. Gellius, lib. 19. cap. 10.
[r] Barthol. in lib. Judices. Cod. de Dignit. lib. 12. Baldus in lib. Nemini. C. de Advoc. Divers. Judic.

by public designation, appointed to teach, are also appointed, in some sense, to govern them: and if learning itself be a fair title to secular opinion, and advantages of honour, then they who are professors of learning, and appointed to be public teachers, are also set above their disciples, as far as the chair is above the 'area' or floor, that is, in that very revelation of teachers and scholars: and therefore among the heathen, the priests who were to answer 'de mysteriis,' sometimes bore a sceptre.

Χρυσείῳ ἀνὰ σκήπτρῳ, καὶ ἴλίσσετο πάντας Ἀχαιούς.

4. Upon which verse of Homer, Eustathius observes, Σημεῖον δὲ βασιλείας, καὶ λόγων, καὶ δίκης, τὸ σκῆπτρον ἦν, 'The sceptre was not only an ensign of a king, but of a judge and of a prophet; it signified a power of answering in judgment, and wise sentences.' This discourse was occasioned by our blessed Saviour's illative; "All power is given me; go ye therefore and teach;" and it concludes, that the authority of preaching is more than the faculty,—that it includes power and presidency: that therefore a separation of persons is 'ex abundanti' inferred, unless order and authority be also casual, and that all men also may be governors as well as preachers.

4. (2). Now that here was a plain separation of some persons for this ministry, I shall not need to prove by any other argument besides the words of commission; save only that this may be added, that there was more necessary, than a commission; great abilities, special assistances, extraordinary and divine knowledge, and understanding the mysteries of the kingdom; so that these abilities were separations enough of the persons, and designation of the officers. But this may, possibly, become the difficulty of the question: for, when the apostles had filled the world with the sermons of the gospel, and that the Holy Ghost descended in a plentiful manner, then was the prophecy of Joel fulfilled, "Old men dreamed dreams, and young men saw visions, and sons and daughters did prophesy." Now the case was altered; and the disciples themselves start up doctors, and women prayed and prophesied, and Priscilla sat in the chair with her husband Aquila, and Apollos sat at their feet; and now all was common again: and therefore although the commission went

out first to the apostles; yet, when by miracle God dispensed great gifts to the laity and to women, he gave probation that he intended that all should prophesy and preach, lest those gifts should be to no purpose. This must be considered.

5. These gifts were miraculous verifications of the great promise of the Father, of sending the Holy Ghost, and that all persons were capable of that blessing in their several proportions, and that Christianity did descend from God, were 'ex abundanti' proved by those extra-regular dispensations: so that here is purpose enough signified, although they be not used to infer an indistinction of officers in this ministry.

6. These gifts were given extra-regularly: but yet with some difference of persons: for all did not prophesy, nor all interpret, nor all speak with tongues: they were but a few that did all this: we find but the daughters of one man only, and Priscilla, among all the nations of the Jews, that ever did prophesy, of the women: and of laymen I remember not one, but Aquila and Agabus: and these will be but too strait an argument to blend a whole order of men in a popular and vulgar indiscrimination.

7. These extraordinary gifts were no authority to those who had them, and no other commission, to speak in public. And therefore St. Paul forbids the women to speak in the church; and yet it was not denied but some of them might have the spirit of prophecy. 'Speaking in the church' was part of an ordinary power, to which not only ability but authority also and commission are required. That was clearly one separation; women were not capable of a clerical employment, no, not so much as of this ministry of preaching. And by this we may take speedier account concerning deaconesses in the primitive church; "de diaconissâ ego Bartholomæus dispono; O episcope, impones ei manus, præsentibus presbyteris, diaconis et diaconissis, et dices, 'respice super hanc famulam tuam;'" so it is in the Constitutions Apostolical under the name of St. Clement[s]: by which it should seem they were ordained for some ecclesiastical ministry; which is also more credible by those words of Tertullian[t]; "Quantæ igitur et quæ in ecclesiis ordinari solent, quæ Deo nubere maluerunt?" And Sozomen[u] tells of Olympias, "Hanc

[s] Lib. 8. cap. 26.
[t] In Exort. ad Castitatem.
[u] Lib. 4. cap. 9.

enim, cum genere esset nobilissimo, quamvis juvenculam, ex quo vidua facta erat, quia ex præscripto ecclesiæ egregiè philosophata, in ministram Nectarius ordinat:" and such a one it was, whom St. Basil[x] called, "impollutam sacerdotem." Whatsoever these deaconesses could be, they could not speak in public, unless they did prevaricate the apostolical rule, given to the Corinthian and Ephesian churches: and therefore though Olympias was an excellent person, yet she was no preacher; she was a philosopher, not in her discourse, but in her manner of living and believing: "philosophata ex ecclesiæ præscripto;" and that could not be by preaching. But these deaconesses, after the apostolical age, were the same with the *κοπιῶσαι ἐν κυρίῳ*, the good women, that did domestic offices and minister to the temporal necessity of the churches in the days of the apostles: such a one was Phœbe of Cenchrea. But they were not admitted to any holy or spiritual office: so we have certain testimony from antiquity, whence the objection comes, For so the Nicene council[y] expressly: *Ἐμνήσθη μὲν τῶν διακονισσῶν*, &c. *ἐπεὶ μηδὲ χειροθεσίαν τινὰ ἔχουσιν, ὥστε ἐξ ἅπαντος ἐν τοῖς λαϊκοῖς αὐτὰς ἐξετάζεθαι.* "Deaconesses are to be reckoned in the laity, because they have no imposition of hands," viz. for any spiritual office. For they had imposition of hands in some places to temporal administrations about the church, and a solemn benediction, but nothing of the *ἱερατικὴ δύναμις*: the same were the *πρεσβυτίδες, προκαθήμεναι*, the presbyteresses, who were the *σωφρονιστρίαι*, or the governesses of women, in order to manners and religion; but these, though (as Tertullian affirms, and Zonaras and Balsamo confess) they were solemnly ordained and set over the women in such offices, yet pretended to nothing of the clerical power or the right of speaking in public. So Epiphanius[z]: "There is an order of deaconesses in the church, but not to meddle, or to attempt any of the holy offices." And in this sense it was, that St. Ambrose[a] reckons it amongst the heresies of the Cataphrygians, that 'they ordained their deaconesses,' viz. to spiritual ministries; but those women that desire to be meddling, are not moved with such discourses; they care for none of all these

[x] Lib. de Virg. [y] Cap. 19.

[z] Hæres. 79. *Διακονισσῶν τάγμά ἐστιν ἐν τῇ ἐκκλησίᾳ, ἀλλ' οὐκ εἰς τὸ ἱερατεῖον οὐδέ τι ἐπιχειρεῖν ἐπιτρέπειν.*

[a] In 1 Tim. iii.

things; therefore I remit them to the precept of the Apostle [b]: "But I suffer not a woman to teach, but to be in silence."

8. And as for the men who had gifts extraordinary of the Spirit, although they were permitted at first in the Corinthian church (before there was a bishop, or a fixed college of clergy) to utter the inspired dictates of the Spirit, yet whether they were lay or clergy, is not there expressed; and it is more agreeable to the usual dispensation, that the prophets of ordinary ministry, though now extraordinarily assisted, should prophesy in public; but however, when these extraordinaries did cease, if they were common persons, they had no pretence to invade the chair, nor, that we find, ever did: for an ordinary ability to speak was never any warrant to disturb an order: unless they can say the words of St. Paul, "whereunto I am ordained a preacher," they might not invade the office. To be able to perform an office, though it may be a fair disposition to make the person capable to receive it orderly, yet it does not actually invest him; every wise man is not a counsellor of state, nor every good lawyer a judge. And I doubt not but, in the Jewish religion, there were many persons as able to pray as their priests, who yet were wiser than to refuse the priests' advocation 'apud Deum,' and reciting offices in behalf of the people: 'Orabit pro eo sacerdos' was the order of God's appointing, though himself were a devout person and of an excellent spirit. And it had need be something extraordinary, that must warrant an ordinary person to rise higher than his own evenness; and ability or skill is but a possibility; and must be reduced to act by something that transmits authority, or does establish order, or distinguish persons, and separate professions. And it is very remarkable that when Judas had miscarried and lost his apostolate, it was said, that it was necessary for somebody to be chosen to be a witness of Christ's resurrection. Two were named, of ability sufficient, but that was not all: they must choose one, to make up the number of the twelve, a distinct separate person; which shows that it was not only a work (for that, any of them might have done), but an office of ordinary ministry. The ability of doing which work although all they that lived with Jesus, might either have had, or received at Pentecost,—yet the authority and grace were more: the first they had upon

[b] 1 Tim. ii. 12.

experience,—but this only by divine election: which is a demonstration that every person that can do offices clerical, is not permitted to do them; and that, besides the knowledge and natural or artificial abilities, a divine qualification is necessary.

9. And therefore God complains by the Prophet, "I have not sent them, and yet they run;" and the Apostle leaves it as an established rule, "How shall they preach, except they be sent?" Which two places, I shall grant to be meant concerning a distinct and a new message; prophets must not offer any doctrine to the people, or pretend a doctrine for which they had not a commission from God. But which way soever they be expounded, they will conclude right in this particular. For if they signify an ordinary mission, then there is an ordinary mission of preachers, which no man must usurp, unless he can prove his title, certainly and clearly, derivative from God; which when any man of the laity can do, we must 'give him the right hand of fellowship,' and 'wish him God speed.' But if these words signify an extraordinary case, and that no message must be pretended by prophets but what they have commission for, then must not ordinary persons pretend an extraordinary mission to an ordinary purpose; for, besides, that God does never do things unreasonable, nor will endure that order be interrupted to no purpose, he will never give an extraordinary commission, unless it be to a proportionable end. Whosoever pretends to a license of preaching by reason of an extraordinary calling, must look that he be furnished with an extraordinary message, lest his commission be ridiculous; and when he comes, he must be sure to show his authority by an argument proportionable; that is, by such a probation, without which no wise man can reasonably believe him; which cannot be less then miraculous and divine. In all other cases, he comes under the curse of the 'non missi,' those whom God sent not; they go on their own errand, and must pay themselves their wages.

10. But, besides that the apostles were therefore to have an immediate mission, because they were to receive new instructions: these instructions were such, as were, by an ordinary, and yet by a distinct ministry, to be conveyed, for ever after; and therefore did design an ordinary, successive, and lasting power and authority. Nay, our blessed Lord went one step further in this provision, even to remark the very first suc-

cessors and partakers of this power, to be taken 'into the lot of this ministry,' and they were the seventy-two whom Christ had sent, as probations of their future preaching upon a short errand into the cities of Judah. But by this assignation of more persons than those to whom he gave immediate commission, he did declare, that the office of preaching was to be dispensed by a separate and peculiar sort of men, distinct from the people, and yet by others than those, who had the commission extraordinary; that is, by such who were to be called to it by an ordinary vocation.

11. As Christ constituted the office and named the persons both extraordinary and ordinary, present and successive; so he provided gifts for them too, that the whole dispensation might be his, and might be apparent. And therefore Christ "when he ascended up on high, gave gifts to men," to this very purpose; and these gifts, coming from the same Spirit, made separation of distinct ministries under the same Lord. So St. Paul[d] testifies expressly; "Now there are diversities of gifts, but the same spirit; καὶ διαιρέσεις διακονιῶν εἰσι, there are different administrations, differences of ministries;" it is the proper word for church-offices; the ministry is distinguished by the gift; it is not a gift of the ministry, but the ministry itself is the gift, and distinguished accordingly. An extraordinary ministry needs an extraordinary and a miraculous gift; that is a miraculous calling and vocation and designation by the Holy Ghost; but an ordinary gift cannot sublime an ordinary person to a supernatural employment; and from this discourse of the differing gifts of the Spirit, St. Paul, without any further artifice, concludes that the Spirit intended a distinction of church-officers for the work of the ministry; for the conclusion[e] of the discourse is, that "God hath set some in the church, first apostles, secondarily prophets, thirdly teachers;" and, lest all God's people should usurp these offices, which God by his Spirit hath made separate and distinguished, he adds, "Are all apostles? are all prophets, are all teachers?" If so, then were all the body one member, quite contrary to nature, and to God's economy.

12. And that this designation of distinct church-officers is for ever, St. Paul[f] also affirms as expressly as this question shall need; "He gave some, apostles,—some, prophets,—

[d] 1 Cor. xii. 4. [e] Ver. 28. [f] Ephes. iv. 11.

and some, evangelists,—and some, pastors and teachers, εἰς ἔργον διακονίας, for the work of the ministry, till we all arrive at the unity of faith:" which as soon as it shall happen, then cometh the end. Till the end be, the ἔργον διακονίας, 'the work of the ministry' must go forwards, and is incumbent upon the pastors and teachers; this is their work,—and they are the ministers, whom the Holy Ghost designed.

13. For, I consider that either to preach requires but an ordinary or an extraordinary ability: if it requires an extraordinary, they who are illiterate and unlearned persons, are the unfittest men in the world for it; if an ordinary sufficiency will discharge it, why cannot they suppose the clergy of a competency and strength sufficient to do that, which an ordinary understanding and faculties can perform? What need they intermeddle with that, to which no extraordinary assistance is required? or else why do they set their shoulder to such a work, with which no strength but extraordinary is commensurate? in the first case, it is needless; in the second, it is useless; in both, vain and impertinent. For either no man needs their help; or, if they did, they are very unable to help. I am sure they are, if they be unlearned persons; and if they be learned, they well enough know, that to teach the people, is not a power of speaking, but is also an act of jurisdiction and authority, and in which, order is, at least, concerned in an eminent degree.—Learned men are not so forward; and those are most confident, who have least reason.

14. Although as homilies to the people are now used according to the smallest rate, many men more preach than should, yet besides that to preach 'prudently, gravely, piously, and with truth,' requires more abilities than are discernible by the people, such as make even a plain work reasonable to wise men, and useful to their hearers, and acceptable to God; besides this, I say, the office of teaching is of larger extent than making homilies, or speaking prettily enough to please the common and undiscerning auditors. They that are appointed to teach the people, must 'respondere de jure,' 'give account of their faith,' in defiance of the numerous armies of heretics; they must watch for their flock, and use excellent arts to arm them against all their weaknesses from within, and hostilities from without; they must strengthen

the weak; confirm the strong; compose the scrupulous; satisfy the doubtful; and be ready to answer cases of conscience: and I believe there are not so little as five thousand cases already started up among the casuists; and for aught I know, there may be five thousand times five thousand. And there are some cases of conscience that concern kings and kingdoms, in the highest mysteriousness both of state and religion, and they also belong to pastors for the interests of religion, and teachers to determine or advise in. Κήρυκας Διὸς ἀγγέλους λέγει καὶ ἀνδρῶν, διὰ ἔντε πάσαις θυσίαις αὐτοὺς διακονοῦντας μεσιτεύειν, καὶ μὴν καὶ ἐν ἀνδρῶν βουλαῖς τε καὶ ἀγοραῖς: "The preachers were always messengers between God and men, being mediators by their sacrifices, and they were interested in their councils and greater causes [s]." And if religion can have influences into councils of princes, and public interest of kingdoms, and that there can be any difficulty, latent senses, intricacy of question, or mysteriousness in divinity, it will be found that there are other parts of the preacher's office, beside making homilies: and that when so great skill is required, it will not be easy to make pretences to invade it; unless a man cannot be an excellent lawyer without twenty years' skill and practice, besides excellency of natural endowments, and yet can be an excellent teacher and guide in all cases of conscience, merely with opening his mouth, and rubbing his forehead hard. But God hath taken order, that those, whom he hath appointed teachers of the people, should make it the work and business of their lives, that they should diligently attend to reading, to exhortation, and to doctrine, that they may "watch over their flock, over whom the Holy Ghost hath made them overseers." The inconvenience that this discourse is like to meet withal, is, that it concerns those men who are sure not to understand it: for they that have not the wisdom of prophets and wise men, cannot easily be brought to know the degrees of distance between the others' wisdom and their own ignorance. To know that there is great learning beyond us, is a great part of learning: but they that have the confidence, in the midst of their deepest ignorance, to teach others, want both modesty and understanding too, either to perceive or to confess

[s] Eustath. in Iliad. α.

their own wants: they never kissed the lips of the wise, and therefore think all the world breathes a breath as fenny and moorish as themselves.

15. Besides the consideration of the ability,—that a separate number of men should be the teachers, and it be not permitted promiscuously to every person of a confident language and bold fancy, is highly necessary in the point of prudence and duty too. Of prudence, because there can be no security against all the evil doctrines of the world in a promiscuous unchosen company of preachers. For if he be allowed the pretence of an extraordinary, he shall belie the Holy Spirit, to cozen you, when he hath a mind to it: if you allow him nothing but an ordinary spirit, that is, the abilities of art and nature, there cannot, in such discourses, be any compensation for the disorder, or the danger, or the schisms, and innumerable churches, when one head and two members shall make a distinct body,—and all shall pretend to Christ, without any other common term of union. And this, which is disorder in the thing, is also dishonourable to this part of religion; and the divine messages shall be conveyed to the people by common carriers or rather messengers by chance, and as they go by; whereas God sent at first ambassadors extraordinary, and then left his liegers in his church for ever. But there is also a duty too to be secured; for they that have the guiding of souls, must remember, that they must be λόγον ἀποδώσοντες, "must render an account;" and that cannot "be done with joy," when it shall be indifferent to any man to superseminate what he please. And, by the way, I suppose, they who are apt to enter into the chair of doctors and teachers, would be unwilling to be charged with a cure of souls. If they knew what that means, they would article more strictly, before they would stand charged with it; and yet it is harder to say there is no such thing as 'the cure of souls;' that Christ left his flock to wander and to guide themselves, or to find shepherds at the charges of accident and chance. Christ hath made a better provision; and after he had, with the greatest earnestness, committed to St. Peter the care of feeding his lambs and sheep, St. Peter did it carefully, and thought it part of the same duty to provide other shepherds, who should also feed the flocks by a continual provision and

attendance; "The presbyters which are among you [h], I who also am a presbyter, exhort,—feed the flock of God which is among you, ἐπισκοποῦντες ἑκουσίως, προθύμως, doing the office of bishops over them, taking supravision or oversight of them willingly and of a ready mind." The presbyters and bishops, they are to 'feed the flock;' there was ποίμνιον, 'a flock' to be distinguished from the ποιμένες, 'the shepherds;' the 'elders' ἐν ὑμῖν and the 'flock among you,' distinguished by a regular office of teaching, and a relation of shepherds and sheep.

16. But this discourse would be unnecessarily long, unless I should omit many arguments, and contract the rest; I only shall desire it be considered, concerning the purpose of that part of Divine Providence, in giving the Christian church commandments [i] concerning provisions to be made for the preachers; "Let the elders that rule well, have a double honour," an elder brother's portion at least, both of honour and maintenance, "especially if they labour in the word and doctrine;" and the reason is taken out of Moses's law, but derived from the natural, "Bovi trituranti non ligabis os." "For God hath ordained, that those that labour in the gospel, should live of the gospel." This argument will force us to distinguish persons, or else our purses will; and if all will have a right to preach the gospel that think themselves able, then also they have a right to be maintained too.

17. I shall add no more: 1. God hath designed persons to teach the people; 2. charged them with the cure of souls; 3. given them permission 'to go into all the world;' 4. given them gifts accordingly; 5. charged the people to attend and obey; 6. hath provided them maintenance and support; and, 7. separated them to "reading, to exhortation, and to doctrine," from the affairs of this world, that they may attend to these, by the care of the whole man. If any man, in charity or duty, will do any ghostly offices to his erring or weak brother, he may have a reward of charity: for in this sense it is that Tertullian says, that, in remote and barbarous countries, the laity do "sacerdotio aliquatenus fungi." But if he invades the public chair, he may meet with the curse of Korah, "if he intends maliciously;" or if he have fairer, but

[h] 1 Pet. v. 1, 2. [i] 1 Tim. v.

mistaken purposes, the gentler sentence, passed upon Uzza, may be the worst of his evil portion.

SECT. IV.

1. I INSTANCE next in *the case of baptism*, which indeed hath some difficulty and prejudice passed upon it; and although it be put in the same commission, intrusted to the same persons, be a sacred ministry, a sacrament and a mysterious rite, whose very sacramental and separate nature requires the solemnity of a distinct order of persons for its ministration: yet if the laity may be admitted to the dispensation of so sacred and solemn rites, there is nothing in the calling of the clergy, that can distinguish them from the rest of God's people, but they shall be holy enough to dispense holy offices without the charges of paying honour and maintenance to others to do what they can do themselves.

2. In opposition to which, I first consider, that the ordinary minister of baptism is a person consecrated; the apostles and their successors in the office apostolical, and all those that partake of that power; and it needs no other proof, but the plain production of the commission; they who are teachers by ordinary power and authority, they also had command to 'baptize all nations:' and baptism being the solemn rite of initiating disciples, and making the first public profession of the institution, it is, in reason and analogy of the mystery, to be ministered by those who were appointed to collect the church, and make disciples. It is as plain and decretory a commission, as any other mysteriousness of Christianity; and hath been accepted so for ever as the doctrine of Christianity, as may appear in Ignatius [k], Tertullian [l], St. Gelasius [m], St. Epiphanius [n], and St. Jerome [o]; who affirm, in variety of senses, that "bishops, priests, and deacons, only are to baptize;" some by ordinary right, some by deputation; of which I shall afterward give account; but all the 'jus ordinarium' they intend to fix upon the clergy, according to divine institution and commandment. So that in case

[k] Epist. ad Hieron.
[l] Lib. de Bapt.
[m] Epist. 1. cap. 9.
[n] Hæres. 79.
[o] Dial. adv. Lucifer.

lay-persons might baptize κατὰ περίστασιν, and δι' ἀνάγκην 'upon urgent necessity,'—yet this cannot, upon just pretence, invade the ordinary ministry, because God had dispensed the affairs of his church, so that cases of necessity do not often occur to the prejudice and dissolution of public order and ministries; and if permissions, being made to supply necessities, be brought further than the case of exception gives leave, the permission is turned into a crime, and does greater violence to the rule, by how much it was fortified by that very exception, as to other cases not excepted. And although, in case of extreme necessity, every man may preach the gospel, as to dying heathens, or unbelieving persons, yet if they do this without such or the like necessity, what at first was charity, in the other case is schism and pride, the two greatest enemies to charity in the world.

3. But now for the thing itself, whether indeed any case of necessity can transmit to lay-persons a right of baptizing, it must be distinctly considered; some say it does. For Ananias baptized Paul, who yet, as it was said, was not in holy orders; and that the three thousand converts at the first sermon of St. Peter were all baptized by the apostles, is not easily credible, it being too numerous a body for so few persons to baptize; and when Peter had preached to Cornelius and his family, he caused the brethren, that came along with him, to baptize them: and whether hands had been imposed upon them or no, is not certain. And in pursuance of the instance of Ananias, and the other probabilities, the doctors of the church have declared their opinion δευτικῶς, "In cases of necessity, a lay-person may baptize." So Tertullian[p] in his book of baptism: "Alioqui et laicis jus est baptizandi: quod enim ex æquo accipitur, ex æquo dari potest." The reason is also urged by St. Jerome to the same purpose; only requiring that the baptizer be a Christian, supposing "whatsoever they have received, they may also give;" but because the reason concludes not, because (as themselves believe) a presbyter cannot collate his presbyterate, it must therefore rest only upon their bare authority; if it shall be thought strong enough to bear the weight of the contrary reasons. And the fathers in the council of Eliberis[q] determined, "peregrè navigantes, aut si ecclesia in proximo non fuerit, posse

[p] Dial. adv. Lucifer. [q] Can. 30.

fidelem, qui lavacrum suum integrum habet, nec sit bigamus, baptizare in necessitate infirmitatis positum catechumenum; ita ut, si supervixerit, ad episcopum eum producat, ut per manus impositionem proficere possit." The synod, held at Alexandria under Alexander their bishop, approved the baptism of the children by Athanasius [r], being but a boy; and the Nicene fathers ratifying the baptism made by heretics (amongst whom they could not but know in some cases, there was no true priesthood or legitimate ordination), must, by necessary consequence, suppose baptism to be dispensed effectually by lay-persons. And St. Jerome is plain: "Baptizare, si necessitas cogat, scimus etiam licere laicis;" the same almost with the canon [s] of the fourth council of Carthage: "Mulier baptizare non præsumat nisi necessitate cogente:" though, by the way, these words of 'nisi cogente necessitate' are not in the canon, but thrust in by Gratian and Peter Lombard. And of the same opinion is St. Ambrose, or he who under his name wrote the commentaries upon the fourth chapter to the Ephesians, Peter Gelasius [t], St. Austin [u], and Isidore [x], and generally all the scholars after their master.

4. But against this doctrine were all the African bishops for about one hundred and fifty years; who therefore rebaptized persons returning from heretical conventicles; because those heretical bishops, being deposed and reduced into lay-communion, could not therefore collate baptism for their want of holy orders; as appears in St. Basil's canonical epistle to Amphilochius, where he relates their reason, and refutes it not. And hower Firmilian and St. Cyprian might be deceived in the thinking heretics quite lost their orders,—yet in this they were untouched, that although their supposition was questionable, yet their superstructure was not meddled with, viz. that if they had been lay-persons, their baptizations were null and invalid.

5. I confess, the opinion hath been very generally taken up in these last ages of the church, and almost with a 'nemine contradicente;' the first ages had more variety of opinion; and I think it may yet be considered anew upon the old stock. For since, absolutely, all the church affixes the

[r] Ruffin. lib. 10. cap. 14.
[s] Can. Mulier. de Consec. Dist. lib. 4. sent. dist. 6.
[t] Epist. 1. [u] Lib. 2. contr. Epist. Parmen. cap. 13.
[x] Lib. 2. de Divin. Offic.

ordinary ministry of baptism to the clergy; if others do baptize, do they sin, or do they not sin? That it is no sin, is expressly affirmed in the sixteenth canon[y] of Nicephorus of Constantinople: "If the own father baptizes the child, or any other Christian man, it is no sin." St. Austin[z] is almost of another mind; "Et si laicus necessitate compulsus baptismum dederit, nescio an pie quisquam dixerit, 'Baptismum esse repetendum:' nullâ enim cogente necessitate si fiat, alieni muneris usurpatio est; si autem necessitas urgeat, aut nullum, aut veniale delictum est." And of this mind are all they, who by frequent using of that saying have made it almost proverbial, "Factum valet, fieri non debet." If they do not sin, then women and laymen have as much right from Christ to baptize as deacons or presbyters; then they may, upon the same stock and right, do it as deacons do; for if a bishop was present, it was not lawful for deacons, as is expressly affirmed by St. Ignatius in his epistle to Heron the deacon; and St. Epiphanius[a] with the same words denies a 'jus baptizandi' to women and to deacons, and both of them affirm it to be proper to bishops. Further yet, Tertullian[b] and St. Jerome deny a power to presbyters to do it without episcopal dispensation. Now if presbyters and deacons have this power, only by leave and in certain cases,—then it is more than the women have: only that they are fitter persons to be intrusted with the deputation; a less necessity will devolve it upon presbyters than upon deacons, and upon deacons than laymen; and a less yet will cast it upon laymen than women: and this difference is in respect of human order and positive constitution; but in the nature of the thing, according to this doctrine all persons are equally receptive of it; and therefore to baptize is no part of the grace of orders, no fruit of the Holy Ghost, but a work which may be done by all, and at some times must: and if baptism may, then it will be hard to keep all the other rites from the common inroads, and then the whole office will perish.

6. But if lay-persons baptizing, though in case of necessity, 'do sin,' as St. Austin seems to say they do, then it is cer-

[y] Χρὴ τὰ ἀβάπτιστα νήπια, ἐὰν εὑρεθῇ τις, εἰς τύπον μὴ ὄντος ἱερέως, βαπτισθῆναι· εἰ καὶ βαπτίσει δὲ ὁ ἴδιος πατὴρ ἢ ὅς δήποτε ἄνθρωπος μόνος, εἰ ἔστιν ὁ χριστιανὸς, οὐκ ἔστιν ἁμαρτία.

[z] Lib. 2. contr. Epist. Parmen. cap. 13.

[a] Hære. 19.

[b] De Bapt. adv. Lucifer.

tain, Christ never gave them leave so much as by insinuation; and then neither can the church give leave; for she can give leave for no man to sin. And, besides, such a deputation were to no purpose; because no person shall dare to do it, for evil is not to be done, though for the obtaining the greatest good: and it will be hard to state the question, so that either the child shall perish, or some other must perish for it; for he that positively ventures upon a sin for a good end, worships God with a sin, and therefore shall be thanked with a damnation, if he dies before repentance; but if the child shall not perish in such case of not being baptized, then why should any man break the rule of institution? and if he shall perish without being baptized, then God hath affixed the salvation of the child upon the condition of another man's sin.

7. And indeed the pretence of cases of necessity may do much towards the excusing an irregularity in an exterior rite, though of divine institution, Τὸ τῆς ἀνάγκης οὐ λέγειν ὅσον ζυγόν[c]. But it will not be easily proved, that God hath made any such necessities: it is certain that for persons, having the use of reason, God hath provided a remedy that no lay person should have need to baptize a catechumen; for his 'votum' or 'desire' of baptism shall serve his turn. And it will be unimaginable, that God hath made no provision for infants, and yet put it upon them in many cases with equal necessity, which, without breach of a divine institution, cannot be supplied.

8. If a lay person shall baptize, whether or no shall the person baptized receive benefit, or will any more but the outward act be done? for that the lay-person shall convey 'rem sacramenti' or 'be the minister of sacramental grace,' is no where revealed in Scripture, and is against the analogy of the gospel; for the "verbum reconciliationis," "all the whole ministry of reconciliation," is intrusted to the priest, "nobis," saith St. Paul, "to us who are ambassadors." And what difference is there, if cases of necessity be pretended in the defect of other ministries, but that they also may be invaded? and cases of necessity may, by other men, also be numbered in the other sacrament: and they have done so; and I

[c] Eurip.

know, who [d] said that no man must consecrate the sacrament of the Lord's supper, but he that is lawfully called, except there be a case of necessity; and that there may be a case of necessity for the blessed sacrament, there needs no other testimony than the Nicene council; which calls the sacrament in the article of death ἀναγκαιότατον ἐφόδιον "the most necessary provision for our journey:" and if a lay person absolves, there is as much promise of the validity of the one as the other, unless it be said, that there may be absolute necessity of baptism, but not so of absolution; which the maintainers of the other opinion are not apt to profess. And therefore St. Austin did not know whether baptism, administered by a lay-person, be to be repeated or no; "nescio an piè quisquam dixerit;" he knew not;—neither do I. But Simon of Thessalonica is confident οὐδεὶς βαπτίζει εἰ μὴ χειροτονίαν ἔχει "no man baptizes but he that is in holy orders." The baptism is null: I cannot say so; nor can I say, ἔστω δεκτὸν, "let it be received."—Only I offer this to consideration; If a deacon can do no ministerial act with effect, but a lay-person may do the same with effect upon the personal suscipient, what is that supernatural grace and inherent and indelible character, which a deacon hath received in his ordination? If a deacon can do no supernatural act, which were void and null if done by him that is not a deacon, he hath no character, no spiritual inherent power: and that he is made the ordinary minister of it, is for order's sake: but he that can do the same thing, hath the same power and ability. By this ground a lay-person and a deacon are not distinguished by any inherent character; and therefore they who understand the spiritual powers and effects of ordination in the sense and expression of an inherent and indelible character, will find some difficulty in allowing the effect of a lay-baptism.

9. But I consider, that the instances of Scripture, brought for the lawfulness of lay-administration, if they had no particular exceptation, yet are impertinent to this question; for it is not with us pretended in any case to be lawful, but in extreme necessity: and therefore, St. Peter's deputing the brethren who came with him to Cornelius, to baptize his family,

[d] De Captivit. Babyl. cap. de Ordine, et in lib. de Instituendis Ministris ad Senatum Pragensem in lib. de Missâ Abrogandâ, in lib. de Notis Ecclesiæ.

is nothing to our purpose, and best answers itself: for either they were of the clergy, who came with them; or else lay persons may baptize by the right of an ordinary deputation, without a case of necessity; for here was none: St. Peter might have done it himself.

10. And as for Ananias, he was one of the seventy-two: and if that be nothing, yet he was called to that ministration about Paul, as Paul himself was to the apostleship, even by an immediate vocation and mission from Christ himself. And if this answer were not sufficient (as it is most certainly), the argument would press further than is intended: for Ananias tells him, he was sent to him that "he might lay his hands on him, that he might receive the Holy Ghost:" and to do that, was more than Philip could do; though he was a deacon, and in as great a necessity, as this was: and yet besides all this, this was not a case of necessity, unless there was never a presbyter or deacon in all Damascus, or that God durst not trust any of them with Paul, but only Ananias, or that Paul could not stay longer without baptism, as many thousand converts did in descending ages.

11. And for the other conjecture, it is not considerable at all: for the apostles might take three or four days' time to baptize the three thousand: there was no hurt done, if they had stayed a week: the text insinuates nothing to the contrary; "The same day, about three thousand were added to the church;" then they 'were added to the church,' that is, 'by virtue and efficacy of that sermon,' who, it may be, considered some while of St. Peter's discourse, and gave up their names upon mature deliberation and positive conviction. But it is not said, "they were baptized the same day;" and yet it was not impossible for the twelve apostles to do it in one day, if they had thought it reasonable.

12. For my own particular, I wish we would make no more necessities than God made, but that we leave the administration of the sacraments to the manner of the first institution, and the clerical offices be kept within their cancels, that no lay hand may pretend a reason to usurp the sacred ministry: and since there can be no necessity for unbaptized persons of years of discretion, because their desire may supply them, it were well also, if our charity would find some other way also, to understand God's mercy towards infants:

for certainly, he is most merciful and full of pity to them also: and if there be no neglect of any of his own appointed ministries, so as he hath appointed them, methinks it were but reasonable to trust his goodness with the infants in other cases. For it cannot but be a jealousy and a suspicion of God, a not daring to trust him, and an unreasonable proceeding beside, that we will rather venture to dispense with divine institution, than think that God will; or that we should pretend more care of children than God hath: when we will break an institution, and the rule of an ordinary ministry of God's appointing, rather than cast them upon God, as if God loved this ceremony better than he loved the child; for so it must be, if the child perished for want of it. And yet still, methinks, according to such doctrine, there was little or no care taken for infants; for when God had appointed a ministry, and fixed it with certain rules and a proper deputation,—in reason (knowing in all things else how merciful God is and full of goodness) we should have expected, that God should have given express leave to have gone besides the first circumstances of the sacrament, if he had intended we might or should; and that he should have told us so too, rather than, by leaving them fast tied without any express cases of exception or marks of difference, permit men to dispute and stand unresolved between a case of duty and a point of charity: for although God will have mercy rather than sacrifice, yet when both are commanded, God takes order they shall never cross each other, and sacrifice is to be preferred before mercy, when the sacrifice is in the commandment, and the mercy is not: as it is in the present question. And if it were otherwise in this case, yet because God loves mercy so well, why should we not think, that God himself will show this mercy to this infant, when he hath not expressed his pleasure that we should do it? We cannot be more merciful than he is.

13. The church of England hath determined nothing in this particular, that I know of; only when, in the first liturgy of King Edward VI. a rubric was inserted, permitting midwives to baptize in cases of extreme danger, it was left out in the second liturgies, which is at least an argument she intended to leave the question undetermined; if at least that omission of the clause, was not also a rejection of the article. Only

this Epiphanius[e] objects against the Marcionites, and Tertullian against the Gnostics, that they did permit women to baptize: I cannot say but they made it an ordinary employment, and a thing besides the case of necessity: I know not whether they did or no. But if they be permitted, it is considerable whither the example may drive: "Petulans mulier, quæ usurpavit docere, an non utique et tingendi jus sibi pariet?" that I may turn Tertullian's[f] thesis into an interrogative. "The women usurp the office of teaching; if also they may be permitted to baptize," they may, in time, arrogate and invade other ministries; or if they do not, by reason of the natural and political incapacity of their persons,—yet others may, upon the same stock: for necessity consists not in a mathematical point, but hath latitude, which may be expounded to inconvenience. And that I say truth, and fear reasonably, I need no other testimony than the Greek church, for amongst them the absence of the priest is necessity enough for a woman to baptize; for so says [g]Gabriel Philadelphiensis: "In the absence of a priest, a Christian laic may baptize, whether it be man or woman," either may do it: and whether that be not only of danger in the sequel, but in itself, a very dissolution of all discipline, I leave it to the church of England to determine as for her own particular, that at least the sacrament be left entirely to clerical dispensation, according to divine commandment.

14. One thing I offer to consideration; that since the keys of the kingdom of heaven be most notoriously and signally used in baptism, in which the kingdom of heaven, the gospel, and all its promises, are opened to all believers, and though as certainly, yet less principally, in reconciling penitents, and admitting them to the communion of the faithful; it may be of ill consequence, to let them be usurped by hands to whom they were not consigned. Certain it is, St. Peter[h] used his keys, and opened the kingdom of heaven first, when he said, "Repent and be baptized, every one of you, in the name of Jesus Christ, for the remission of sins; and ye shall receive the gift of the Holy Ghost." However, as to the main question, we have not only the universal doctrine of Chris-

[e] De Præscript. Hæres. 42. [f] Tertullian. de Baptismo.

[g] Tractat. de Sacramento, cap. de Baptismo. Μὴ παρόντος ἱερέως, βαπτίζει καὶ λαϊκὸς χριστιανὸς, ἄντε γυνὴ ἦ, ἄντε ἄνδρα.

[h] Acts, ii. 38.

tendom, but also express authority and commission in Scripture, sending out apostles and apostolical men, persons of choice and special designation "to baptize all nations," and to entertain them into the services and institution of the holy Jesus.

SECT. V.

1. I SHALL instance but once more, but it is in the most solemn, sacred, and divinest mystery in our religion; that in which the clergy in their appointed ministery do διακονοῦντες μεσιτεύειν "stand between God and the people," and do fulfil a special and incomprehensible ministry, which "the angels themselves do look into" with admiration; to which the people, if they come without fear, cannot come without sin; and this of so sarced and reserved mysteriousness, that but few have dared to offer at with unconsecrated hands: some have. But the "*eucharist*" is the fulness of all the mysteriousness of our religion; and the clergy, when they officiate here, are most truly, in the phrase of St. Paul [i], "dispensatores mysteriorum Dei," "dispensers of the great mysteries of the kingdom." For, to use the words of St. Cyprian [k], "Jesus Christ is our high-priest, and himself become our sacrifice, which he finished upon the cross in a real performance; and now, in his office of mediatorship, makes intercession for us by a perpetual exhibition of himself, of his own person in heaven; which is a continual actually-represented argument to move God to mercy to all, that believe in and obey the holy Jesus."

2. Now Christ did also establish a number of select persons to be ministers of this great sacrifice, finished upon the cross; that they also should exhibit and represent to God, in the manner which their Lord appointed them, this sacrifice, commemorating the action and suffering of the great priest; and by way of prayers and impetration, offering up that action in behalf of the people, ἐπὶ τὸ ἄνω θυσιαστήριον ἀναπέμψας τὰς θυ-

[i] 1 Cor. iv. 1.

[k] Ad Cæcil. ep. 63. Si Jesus Christus, Dominus et Deus noster, ipse est summus sacerdos Dei Patris, et sacrificium Patri seipsum primus obtulit, et hoc fieri in sui commemorationem præcepit, utique ille sacerdos vice Christi verè fungitur, qui id, quod Christus fecit, imitatur: et sacrificium verum et plenum tunc offert in ecclesiâ Deo Patri, si incipiat offerre secundum quod ipsum Christum videat obtulisse.

σίας, as Gregory Nazianzen [l] expresses it, "sending up sacrifices to be laid upon the altar in heaven;" that the church might be truly united unto Christ their head, and, in the way of their ministry, may do what he does in heaven. For he exhibits the sacrifice, that is, himself, actually and presentially in heaven: the priest on earth commemorates the same, and, by his prayers, represents it to God in behalf of the whole catholic church; presentially too, by another and more mysterious way of presence; but both Christ in heaven, and his ministers on earth, do actuate the sacrifice, and apply it to its purposed design by praying to God in the virtue and merit of that sacrifice; Christ himself, in a high and glorious manner; the ministers of his priesthood (as it becomes ministers) humbly, sacramentally, and according to the energy of human advocation and intercession; this is the sum and great mysteriousness of Christianity, and is now to be proved.

3. This is expressly described in Scripture; that part concerning Christ is the doctrine of St. Paul [m], who disputes largely concerning Christ's priesthood, affirming "that Christ is a priest for ever;" he hath therefore "an unchangeable priesthood," because "he continueth for ever," and "he lives for ever to make intercession for us;" this he does as priest, and therefore it must be by offering a sacrifice; "for every high-priest is ordained to offer gifts and sacrifices;" and therefore "it is necessary he also have something to offer," as long as he is a priest, that is, 'for ever,' till the consummation of all things. Since therefore he hath nothing new to offer, and something he must continually offer, it is evident, he offers himself as the medium of advocation, and the instance and argument of a prevailing intercession; and this he calls "a more excellent ministry;" and by it, "Jesus is a minister of the sanctuary, and of the true tabernacle;"—that is, he, as our high-priest, officiates in heaven, in the great office of a mediator, in the merit and power of his death and resurrection. Now what Christ does always in a proper and most glorious manner, the ministers of the gospel also do in theirs: commemorating the sacrifice upon the cross, "giving thanks," and celebrating a perpetual eucharist for it, and 'by declaring the death of Christ,' and praying to God in the virtue of it, for all the members of the church, and all persons capable;

[l] Orat. 11. [m] Heb. vii. 23, &c. viii. 2, 3, &c.

it is 'in genere orationis,' a sacrifice, and an instrument of propitiation, as all holy prayers are in their several proportions.

4. And this was by a precept of Christ; "Hoc facite," 'Do this in remembrance of me." Now this precept is but twice reported of in the New Testament, though the institution of the sacrament be four times. And it is done with admirable mystery; to distinguish the several interests and operations which concern several sorts of Christians in their distinct capacities: St. Paul thus represents it; "Take, eat—This do in remembrance of me;" plainly referring this precept to all that are to eat and drink the symbols: for they also do, in their manner, 'enunciate,' declare, or represent, "the Lord's death till he come." And St. Paul prosecutes it with instructions particular to the κοινωνοῦντες, 'to them that do communicate,' as appears in the succeeding cautions against unworthy manducation, and for due preparation to its reception. But St. Luke reports it, plainly to another purpose, "And he took bread and gave thanks, and brake it, and gave it unto them, saying, This is my body which is given for you;"—"Hoc facite," "This do in remembrance of me:" '*This*' cannot but relate to "accepit, gratias egit, fregit, distribuit; hoc facite."—Here was no manducation expressed, and therefore 'Hoc facite' concerns the apostles in the capacity of ministers; not as receivers, but as consecrators and givers; and if the institution had been represented in one scheme, without this mysterious distinction and provident separation of employment, we had been eternally in a cloud, and have needed a new light to guide us; but now the Spirit of God hath done it in the very first fountains of Scripture.

5. And this being the great mystery of Christianity, and the only remanent express of Christ's sacrifice on earth, it is most consonant to the analogy of the mystery, that this commemorative sacrifice be presented by persons as separate and distinct in their ministry, as the sacrifice itself is from, and above, the other parts of our religion.

6. Thus also the church of God hath for ever understood it, without any variety of sense, or doubtfulness of distinguishing opinions. It was the great excellency and secret mystery of the religion, to consecrate and offer the holy symbols and sacraments: I shall transcribe a passage out of Justin Mar-

tyr giving the account of it to Antoninus Pius in his oration to him; and it will serve instead of many; for it tells the religion of the Christians in this mystery, and gives a full account of all the ceremony[n]: Παυσάμενοι τῶν εὐχῶν, ἔπειτα προσφέρεται τῷ προεστῶτι τῶν ἀδελφῶν ἄρτος καὶ ποτήριον ὕδατος καὶ χρήματος, &c. "When the prayers are done, then is brought to the president of the brethren [the priest] the bread, and the chalice of wine mingled with water; which being received, he gives praise and glory to the Father of all things, and presents them in the name of the Son and the Holy Spirit, and largely gives thanks, that he hath been pleased to give us these gifts: and when he hath finished the prayers and thanksgiving, all the people that are present, with a joyful acclamation, say, 'Amen.' Which when it is done by the presidents and people, those which amongst us are called deacons and ministers, distribute to every one that is present, that they may partake of him, in whom the thanks were presented, the eucharist, bread, wine, and water; and may bear it to the absent. Moreover, this nourishment is by us called 'the eucharist,' which it is lawful for none to partake, but to him who believes our doctrine true, and is washed in the laver for the remission of sins, and regeneration, and that lives so as Christ delivered. For we do not take it as common bread, and common drink; but as, by the word of God, Jesus Christ the Saviour of the world was made flesh, and for our salvation's sake had flesh and blood,—after the same manner also we are taught that this nourishment, in which by the prayers of his word, which is from him the food in which thanks are given, or the consecrated food by which our flesh and blood, by mutation or change, are nourished, is the flesh and blood of the incarnate Jesus. For the apostles in their commentaries which they wrote, which are called the 'Gospels,' so delivered, as Jesus commanded. For when he had given thanks and taken bread, he said, "Do this in remembrance of me; this is my body;" and likewise taking the chalice, and having given thanks, he said, "This is my blood;" and that he gave it to them alone."—This one testimony I reckon as sufficient: who please to see more, may observe the tradition full, testified, and entire, in Ignatius[o],

[n] Vide etiam Justin. in Apol. 2.
[o] Epist. ad Trallian.

Clemens Romanus[p], or whoever wrote the Apostolical Constitutions in his name, Tertullian[q], St. Cyprian[r], St. Athanasius[s], Epiphanius[t], St. Basil[u], St. Chrysostom[x] (almost every where), St. Jerome[y], St. Austin[z]; and indeed we cannot look in vain into any of the old writers: the sum of whose doctrine in this particular I shall represent in the words of the most ancient of them, St. Ignatius, saying, that "he is worse than an infidel that offers to officiate about the holy altar, unless he be a bishop or a priest."

7. And certainly he could, upon no pretence, have challenged the appellative of Christian, who had dared either himself to invade the holy rites within the cancels, or had denied the power of celebrating this dreadful mystery to belong only to sacerdotal ministration. For either it is said to be but common bread and wine, and then, if that were true, indeed any body may minister it; but then they that say so, are blasphemous, "they count the blood of the Lord, τὸ αἷμα τῆς διαθήκης (as St. Paul[a] calls it, in imitation of the words of institution), the blood of the covenant, or New Testament, a profane or common thing; they discern not the Lord's body; they know not that the bread that is broken, is the communication of Christ's body."—But if it be a holy, separate, or divine and mysterious thing, who can make it (ministerially, I mean), and consecrate or sublime it from common and ordinary bread, but a consecrate, separate, and sublimed person? It is to be done either by a natural power, or by a supernatural. A natural cannot hallow a thing in order to God; and they only have a supernatural, who have derived it from God, in order to this ministration; who can show that they are taken up into the lot of that deaconship, which is the type and representment of that excellent ministry of 'the true tabernacle,' where Jesus himself does the same thing, in a higher and more excellent manner.

8. This is the great secret of the kingdom, to which, in the primitive church, many who yet had given up their names

[p] Lib. 7. cap. 31. et lib. 8. cap. ult. [q] De Præscript.
[r] Lib. 1. ep. 2. et 9. et lib. 3. epist. 15.
[s] Apol. 2. cum de Ischriâ rationem reddit eum calice sacro uti non potuisse.
[t] Hæres. 79. [u] Lib. 2. de Bapt. cap. 8.
[x] Lib. 3. et. 6. de Sacerd. Homil. 51. et 83. in Matt. et Hom. 6. ad pop. Antioch.
[y] Contr. Lucifer. et ep. 1. ad Helidor. et 85: ad Evagrium et ad Hedito. 150. 9. 2. [z] Lib. 20. de Civ. cap. 10. [a] Heb. x. 29.

to Christ by designation or solemnity, were not admitted, so much as to the participation; as the 'catechumeni,' the 'audientes,' the 'pœnitentes,' 'neophytes,' and 'children:' and the ministry of it was not only reserved for sacred persons, but also performed with so much mysterious secrecy, that many were not permitted so much as to see. This is that rite, in which the priest intercedes for and blesses the people: offering in their behalf, not only their prayers, but applying the sacrifice of Christ to their prayers, and representing them with glorious advantages, and titles of acceptation, which because it was so excellent, celestial, sacred, mystical, and supernatural, it raised up the persons too; that the ministerial priesthood in the church, might, according to the nature of all great employments, pass an excellency and a value upon the ministers.

9. And therefore according to the natural reason of religion, and the devotion of all the world, the Christians, because they had the greatest reason so to do, did honour their clergy with the greatest veneration and esteem. It is without a metaphor, 'regale sacerdotium,' 'a royal priesthood,' so St. Peter[b];—which although it be spoken in general of the Christian church, and, in an improper large sense, is verified of the people; yet it is so to be expounded, as that parallel place of the book of Moses[c], from whence the expression is borrowed, "Ye shall be a kingdom of priests and a holy nation;" which plainly, by the sense and analogy of the Mosaic law, signifies a nation blessed by God with rites and ceremonies of a separate religion; a kingdom, in which priests are appointed by God,—a kingdom, in which nothing is more honourable than the priesthood; for it is certain, the nation was famous in all the world, for an honourable priesthood; and yet the people were not priests, in any sense, but of a violent metaphor. And therefore the Christian ministry having greater privileges, and being honoured with attrectation of the body and blood of Christ, and offices serving 'to a better covenant,' may, with greater argument, be accounted excellent, honourable, and royal; and all the church be called 'a royal priesthood;' the denomination being given to the whole, from the most excellent part; because they altogether make one body under Christ the head, the medium

[b] 1 Pet. ii. 9. [c] Exod. xix. 6.

of the union being the priests, the collectors of the church, and instrument of adunation; and 'reddendo singula singulis,' 'dividing to each his portion' of the expression; the people is 'a peculiar people,'—the clergy, 'a holy priesthood:' and all in conjunction, and for several excellences, 'a chosen nation.' So that *βασίλειον ἱράτευμα* is the same with *βασιλείας ἱράτευμα*, 'the priesthood of the kingdom,' that is, 'the ministry of the gospel:'—for in the New Testament, 'the kingdom' signifies 'the gospel:' and *βασίλειος* is the same with *εὐαγγελικός*, 'kingly' is 'of or belonging to the gospel:' for therefore it is observable, it is not *βασιλικὸν* but *βασίλειον ἱράτευμα*, not well rendered by the Vulgar Latin 'regale sacerdotium;' as if 'kingly' were the appellative or epithet of this priesthood; it is 'regium,' 'a priesthood appertaining to the kingdom' of the gospel; and the priest being enumerated distinctly from the people, 'the priests of the kingdom,' and the 'people of the kingdom,' are all 'holy and chosen;' but in their several manner: the priests of the kingdom those,—the people of the kingdom, these; to bring or design a spiritual sacrifice, the priest to offer it; or altogether to sacrifice; the priest by his proper ministry, the people by their assent, conjunction, and assistance, chosen to serve God, not only in their own forms, but under the ministrations of an honourable priesthood.

10. And in all the descent of Christian religion it was indeed honourable: Ἡ μὲν ἱερωσύνη τελεῖται ἐπὶ τῆς γῆς, τάξιν δὲ ἐπουρανίων ἔχει ταγμάτων, saith St. Chrysostom[d]; "The Christian priesthood does its ministry and is perfected on earth, but hath the beauty, order, and excellency, of the heavenly hosts." So that I shall not need to take notice of the "lamina aurea," which Polycrates[e] reports St. John to have worn in token of his 'royal priesthood,' "a wreath of gold" (so also did St. James, bishop of Jerusalem, as St. Jerome and Epiphanius[f] report); nor the exemption of the clergy from tribute, their authority with the people, their great donatives and titles of secular advantage; these were accidental to the ministry, and relied upon the favour of princes, and devotion of the people; and if they had been more, yet are less than the honours God had bestowed upon it: for certainly there

[d] Lib. 3. de Sacer.
[e] Apud Euseb. Hist. lib. 5. cap. 25.
[f] De Script. in Jacob. hæres. 78.

is not a greater degree of power in the world, than 'to remit and retain sins, and to consecrate the sacramental symbols into the mysteriousness of Christ's body and blood; nor a greater honour, than that God, in heaven, should ratify what the priest does on earth; and should admit him to handle the sacrifice of the world, and to present the same, which, in heaven, is presented by the eternal Jesus.

Ὦ θυσίας πέμποντες ἀναιμάκτους ἱερᾶς,
Ὦ ψυχῶν ταμίαι μεγαλύδιες, ὦ μεγάλοιο
πλάσμα θεοῦ χείρεσσιν ἐν ὑμετέρῃσι φέροντες.

11. So Gregory Nazianzen describes the honour and mysteriousness of the priest's power: "They minister the spiritual and unbloody sacrifice; they are honourable guardians of souls; they bear the work of God in their hands."—And St. Jerome speaking of these words of St. Paul[g], "I am ordained a preacher and an apostle:"—"Quod Paulus ait, 'apostolus Jesu Christi', tale mihi videtur quasi dixisset, præfectus prætorio Augusti Cæsaris, magister exercitus Tiberii imperatoris." And a little after, "Grandem inter Christianos sibi vindicans dignitatem, apostolum se Christi titulo prænotavit, ut lecturos ex ipsa nominis auctoritate deterreret, indicans omnes qui Christo crederent, debere esse sibi subjectos." And therefore St. Chrysostom says, it is the trick of heretics, not to give to bishops titles of their eminency and honour, which God hath vouchsafed them: "Ut diabolus, ita etiam quilibet facit hæreticus vehementissimus in tempore persecutionis, loquens cum pontifice, nec eum vocat pontificem, nec archiepiscopum, nec religiosissimum, nec sanctum, sed quid? 'Reverentia tua,' &c. nomina illi adducit communia, ejus negans auctoritatem: diabolus hoc tunc fecit in Deo."—It is καθαρτικὴ τάξις and διακριτικὴ, 'a separating and purifying order of men,' so Dionysius calls it: but Nazianzen[h] speaks greater and more glorious words, and yet what is no more than a sober truth: for he calls the priest τὸν μετ' ἀγγέλων στησόμενον, καὶ μετ' ἀρχαγγέλων δοξάζοντα, καὶ ἐπὶ τὸ ἄνω θυσιαστήριον ἀναπέμψαντα τὰς θυσίας, καὶ Χριστῷ συνιερέυσαντα, καὶ, τὸ μεῖζον εἰπεῖν, θεὸν ἐσόμενον, καὶ θεοποιήσαντα. "He stands with angels, and is magnified with archangels; he sends sacrifices to a celestial altar, and is consecrated in

[g] 1 Tim. i. 3. [h] Orat. 1.

the priesthood of Christ, a divine person, and an instrument of making others so too." I shall add no more as to this particular. The express precepts of God in Scripture[i] are written in great characters, there is a "double honour to" be given to the ecclesiastical rulers: "Rulers that also labour in the word and doctrine:" there is obedience due to them, "obedience in all things, and estimation, and love, ὑπὲρ ἐκ περισσοῦ, very abundantly; esteem such very highly for their work's sake; a communicating to them in all good things:" and their offices[k] are described to be great, separate, busy, eminent, and profitable;—they are "rulers; presidents; set over us in the Lord; taking care for us; labouring in doctrine; spiritual persons; restorers of them that were overtaken in a fault; curates of souls; such as must give an account for them; the salt, the light of the world; shepherds;" and much more, signifying work, and rule, and care, and honour. But next to the words of Scripture, there can no more be said concerning the honour of the sacred order of the clergy, than is said by St. Chrysostom in his books 'de Sacerdotio,' and St. Ambrose, 'de Dignitate Sacerdotali;' and no greater thing can be supposed communicated to men than to be the 'ministers of God,' in the great conveyances of grace, and 'instruments of God' in the pardon of sins, in the consecration of Christ's body and blood, in the guidance and conduct of souls. And this was the style of the church, calling[l] bishops and priests, according to their respective capacity, "stewards of the grace of God; leaders of the blind; a light of them that sit in darkness; instructors of the ignorant; teachers of babes; stars in the world; amongst whom ye shine as lights in the world;" and that is Scripture too; stars in Christ's right hand; lights set upon the candlesticks. And now supposing these premises, if Christendom had not paid proportionable esteem to them, they had neither known how to value religion, or the mysteries of Christianity. But that all Christendom ever did pay the greatest reverence to the clergy and religious veneration, is a certain argument that, in Christian religion, the distinction of the clergy from

[i] 1 Tim. v. 17. Heb. xiii. 17. 1 Thess. v. 12. Gal. vi. 1.

[k] Προϊστῶτες, ἡγούμενοι, ποιμαίνοντες, προϊστάμενοι ἡμῶν, ἄνδρες πνευματικοὶ, καταρτίζοντες πρόληφθέντας ἐν παραπτώματι, λόγου ἀποδόσεως.

[l] Οἰκονόμους ἀρχιερατικῆς χάριτος, ὁδηγοὺς τυφλῶν, φῶς τῶν ἐν σκότει, παιδευτὰς ἀφρόνων, διδασκάλους νηπίων, φωστῆρας ἐν κόσμῳ.

the laity is supposed as a 'præcognitum,' a principle of the institution. I end this with the words of the seventh general council[m]: "It is manifest to all the world, that, in the priesthood, there is order and distinction; and to observe the ordinations and elections of the priesthood with strictness and severity, is well-pleasing to God."

SECT. VI.

1. As soon as God began to constitute a church, and fix the priesthood, which, before, was very ambulatory, and dispensed into all families, but ever officiated by the 'major-domo,' God gives the power, and designs the person. And therefore Moses consecrated Aaron, "agitatus à Deo consecrationis principe," saith Dionysius[n]; Moses performed the external rites of designation, but God was the consecrator: *τὴν ἱερατικὴν τελείωσιν ἱεραρχικῶς ἐτελεσιούργησε ὑπὸ τελετάρχῃ θεῷ.* "Moses appointed Aaron to the priesthood, and gave him the order, but it was only as the minister and deputy of God, under God the chief consecrator[o]."—"And no man taketh upon him this honour, but he that was called of God, as was Aaron," saith St. Paul. For in every priesthood, God designed and appointed the ministry, and collates a power, or makes the person gracious: either gives him a spiritual ability of doing something which others have not; or if he be only employed in praying and presenting sacrifices of beasts for the people, yet that such a person should be admitted to a nearer address and in behalf of the people, must depend upon God's acceptation, and therefore upon divine constitution: for there can be no reason given in the nature of the thing, why God will accept the intermediation of one man for many, or why—this man, more than another, who, possibly, hath no natural or acquired excellency beyond many of the people, except what God himself makes, after the constitution of the person. If a spiritual power be necessary to the ministration, it is certain, none can give it but the fountain and the principle of the

[m] Can. 14. Ὅτι τάξις ἐμπολιτεύεται ἐν ἱερωσυνῃ καὶ πᾶσιν ἀρίδηλον, καὶ ὅτι τὸ ἐν ἀκριβείᾳ διατηρεῖν τὰς τῆς ἱερωσύνης ἐγχειρήσεις θεῷ ἐστιν εὐάρεστον.

[n] Eccles. Hierarch Dionys. ibid.

Spirit's emanation. Or if the graciousness and aptness of the person be required, that also being arbitrary, preternatural, and chosen, must derive from the divine election: for God cannot be prescribed unto by us, whom he shall hear, and whom he shall entertain in a more immediate address, and freer intercourse.

2. And this is divinely taught us by the example of the High-priest himself: who, because he derived all power from his Father, and all his graciousness and favour in the office of priest and mediator, was also personally chosen and sent, and took not the honour but as it descended on him from God, that the honour and the power, the ability and the ministry, might derive from the same fountain. "Christ did not glorify himself to become high-priest [p]." Honour may be deserved by ourselves, but always comes from others: and because there is no greater honour than 'to be ordained for men in things pertaining to God,' every man must say as our blessed High-priest said of himself, "If I honour myself, my honour is nothing: it is God that honoureth me."—For Christ, being the fountain of evangelical ministry, is the measure of our dispensations, and the rule of ecclesiastical economy: and therefore we must not arrogate any power from ourselves, or from a less authority than our Lord and Master did: and this is true and necessary in the gospel, rather than in any ministry or priesthood that ever was, because of the collation of so many excellent and supernatural abilities, which derive from Christ upon his ministers, in order to the work of the gospel.

3. And the apostles understood their duty in this particular, as in all things else; for when they had received all this power from above, they were careful to consign the truth, that although it be ἀνθρωπίνη τάξις it is θεία χάρις, 'a divine grace in human ministry,' and that although ἀπὸ ἀνθρώπων καθίσταται, yet οὐχ ἑαυτῷ τις τὴν τιμὴν λαμβάνει, that is, "he that is ordained by men, yet receives his power from God [q];" not at all by himself, and from no man, as from the fountain of his power: and this, I say, the apostles were careful to consign in the first instance of ordination in the case of Matthias [r]: "Thou, Lord, show, which of these two thou hast chosen:" God was the elector, and they the ministers; and this being

[p] Heb. v. 5. [q] Heb. v. 1. [r] Acts, i. 24.

at the first beginning of Christianity, in the very first designation of an ecclesiastical person, was of sufficient influence into the religion for ever after; and taught us to derive all clerical power from God; and therefore by such means and ministries which himself hath appointed, but, in no hand, to be invaded, or surprised in the entrance, or polluted in the execution.

4. This descended in the succession of the church's doctrine for ever. "Receive the Holy Ghost," said Christ to his apostles, when he enabled them with priestly power: and St. Paul to the bishops of Asia said, "The Holy Ghost hath made you bishops or overseers:"—"because no mortal man, no angel, or archangel, nor any other created power, but the Holy Ghost alone, hath constituted this order," saith St. Chrysostom [s]. And this very thing, besides the matter of fact, and the plain donation of the power by our blessed Saviour, is intimated by the words of Christ otherwhere: "Pray ye, therefore, the Lord of the vineyard, that he will send labourers into his harvest." Now his mission is not only a designing of the persons, but enabling them with power; because he never commands a work, but he gives abilities to its performance: and therefore still in every designation of the person, by whatever ministry it be done, either that ministry is by God constituted to be the ordinary means of conveying the abilities, or else God himself ministers the grace immediately. It must of necessity come from him some way or other: Πᾶσα δόσις ἀγαθὴ καὶ πᾶν δώρεμα τέλειον ἄναθέν ἐστι.—St. James[t] hath adopted it into the family of evangelical truths, Πᾶν δώρημα τέλειον, and therefore πᾶν δώρημα τελειωτικὸν. "Every perfect gift, and therefore every perfecting gift," which in the style of the church is the gift of ordination, "is from above;" the gifts of perfecting the persons of the hierarchy, and ministry evangelical:—which thing is further intimated by St. Paul[u]; "Now he which stablisheth us with you, εἰς Χριστὸν, in order to Christ and Christian religion, is God:" and that his meaning be understood concerning the βεβαίωσις ἀποστολικὴ of establishing him in the ministry, he adds [x], καὶ χρίσας ἡμᾶς ὁ Θεὸς, "and he which anointeth us, is God, and

[s] Chrysost. lib. 3. de Sacerdot. Quippe non mortalis quispiam, non angelus, non archangelus, non alia quævis creata potentia, sed ipse Paracletus ordinem ejusmodi disposuit. [t] James, i. 17. [u] 2 Cor. i. 21. [x] Ver. 22.

hath sealed us with an earnest of his Spirit [unction], and consignation and establishing by the Holy Spirit:" the very style of the church for ordination, Τοῦτον ὁ Πατὴρ ἐσφραγισεν ὁ Θεὸς, it was said [y] of Christ, "Him hath the Father sealed," that is, ordained him the priest and the prophet of the world, and this he plainly spoke as their apostle and president in religion: "Not as lords over your faith, but fellow-workers;" he spake [z] of himself and Timothy, concerning whose ministry in order to them, he now gives account: χρίσας ὁ Θεὸς, and σφραγισάμενος ὁ Θεὸς, God anoints the priest, and God consigns him with the Holy Ghost; that is the 'principale quæsitum,' that is 'the main question.'

5. And therefore the author of the books of Ecclesiastical Hierarchy, giving the 'rationale' of the rites of ordination, says that the priest is made so δι' ἀνάῤῥησιν 'by way of proclaiming' and publication of the person; signifying, "that the holy man that consecrates, is but the proclaimer of the divine election [a]," but not by any human power or proper grace does he give the perfect gift and consecrate the person. And Nazianzen [b], speaking of the rites of ordination, hath this expression, "with which the divine grace is proclaimed:" and Billius renders it ill by 'superinvocatur.' He makes the power of consecration to be 'declarative;' which indeed is a lesser expression of a fuller power, but it signifies as much as the whole comes to; for it must mean, God does transmit the grace *at* or *by* or *in* the exterior ministry; and the minister is ἐκφαντορικὸς, 'a declarer,' not by the word of his mouth, distinct from the work of his hand; but by the ministry, he declares the work of God, then wrought in the person suscipient. And thus in absolution, the priest declares the act of God pardoning, not that he is a preacher only of the pardon upon certain conditions, but that he is not the principal agent, but by his ministry 'declares' and ministers the effect and work of God. And this interpretation is clear in the instance of the blessed sacrament, where not only the priest but the people do καταγγέλλειν 'declare' the Lord's

[y] John, vi. 27.

[z] Οὐχ ὅτι κυριεύομεν ὑμῶν τῆς πίστεως, ἀλλὰ συνεργοί ἐσμεν, &c.

[a] Ὅτι ὁ φιλόθεος ἱεροτελεστὴς ἐκφαντορικός ἐστι τῆς θειαρχικῆς ἐκλογῆς· οὐκ αὐτὸς ἰδίᾳ χάριτι τοὺς τελουμένους ἐπὶ τὴν ἱερὰν ἄγων τελείωσιν.

[b] Νῦν δὲ καθυπεύθυνος τὰς δημοσίας ἀρχὰς εὐτακτοτέρας ὑπολαμβάνειν τῶν ἡμετέρων, αἷς ἡ θεία χάρις ἐπιφημίζεται. In Orat. in Laudem sui Patris.

death, not by a homily, but by virtue of the mystery which they participate. And, in the instance of this present question, the consecrator does declare power to descend from God upon the person to be ordained.

6. But thus the whole action, being but a ministry, is a declaration of the effect and grace of God's vouchsafing; and because God does it not immediately,—and also because such effects are invisible and secret operations, God appointed an external rite and ministry, that the private working of the Spirit may become as perceived as it can be, that is, that it may, by such rites, be declared to all the world what God is doing, and that man cannot do it of himself; and besides the reasonableness of the thing, the very words in the present allegation do to this very sense expound themselves: for ἐκφαντορικός ἐστι and οὐκ ἰδίᾳ χάριτι are the same thing, and expressive of each other; the consecrator 'declares, that he doth not do it by collation of his own grace' or power, but the grace of God and power from above.

7. And this doctrine we read also in St. Cyprian,[c] towards the end of his epistle to Cornelius: "ut Dominus, qui sacerdotes sibi in ecclesia sua eligere et constituere dignatur, electos quoque et constitutos sua voluntate atque opitulatione tueatur:" it is a good prayer of ordination, "that the Lord, who vouchsafes to choose and consecrate priests in his church, would also be pleased, by his aid and grace, to defend them whom he hath so chosen and appointed."—"Homo manum imponit, et Deus largitur gratiam: sacerdos imponit supplicem dextram, Deus benedicit potenti dextra," saith St. Ambrose[d]; "Man imposes his hand, but God gives the grace: the bishop lays on his hand of prayer, and God blesses with his hand of power."—The effect of this discourse is plain; the grace and powers that enable men to minister in the mysteries of the gospel, is so wholly from God, that whosoever assumes it without God's warrant and besides his way, ministers with a vain, sacrilegious, and ineffective hand,—save only that he disturbs the appointed order, and does himself a mischief.

[c] Epist. 45.
[d] De Dignit. Sacer. cap. 3. et in comment. in 1 tom. cap. 2. et in 1 Cor. xii. in illud, Divisiones Gratiarum.

SECT. VII.

1. By this ordination, the persons ordained are made ministers of the gospel,—stewards of all its mysteries,—the light, the salt of the earth,—the shepherd of the flock,—curates of souls: these are their offices, or their appellatives, which you please: for the clerical ordination is no other but *a sanctification of the person* in both senses; that is, 1. A separation of him to do certain mysterious actions of religion: which is that sanctification, by which Jeremy and St. John the Baptist were sanctified from their mothers' wombs. 2. It is also a sanctification of the person, by the increasing, or giving respectively to the capacity of the suscipient, such graces as make the person meet to speak to God, to pray for the people, to handle the mysteries, and to have influence upon the cure.

2. The first sanctification is a designation of the person; which must of necessity be some way or other by God: because it is a nearer approach to him, a ministry of his graces, —which, without his appointment, a man must not, cannot any more do, than a messenger can carry pardon to a condemned person, which his prince never sent. But this separation of the person, is not only a naming of the man (for so far the separation of the person may be previous to the ordination: for so it was in the ordinations of Matthias, and the seven deacons; the apostles, ἔστησαν δύο 'they appointed two,' before God chose by lot; and the whole church chose the seven deacons, before the apostles imposed hands); but the separation, or this first sanctification of the person, is a giving him a power to do such offices, which God hath appointed to be done to him, and for the people; which we may clearly see and understand in the instance of Job[e] and his friends: for when God would be entreated in behalf of Eliphaz and his companions, he gave order that Job should make the address; "Go to my servant; he shall pray for you, and him will I accept." This separation of a person for the offices of advocation, is the same thing which I mean by 'this first sanctification;' God did it, and gave him a power and authority to go to him, and put him into a place of trust and

[e] Job, xlii. 8.

favour about him, and made him a minister of the sacrifice, which is a power and eminency above the persons for whom he was to sacrifice, and a power or grace from God to be in nearness to him. This I suppose to be the great argument for the necessity of separating a certain order of men for ecclesiastical ministries: and it relies upon these propositions. 1. All power of ordination descends from God, and he it is who sanctifies and separates the person. 2. The priest by God is separate to be the gracious person to stand between him and the people. 3. He speaks the word of God, and returns the prayers and duty of the people, and conveys the blessings of God by his prayer and by his ministry. So that although every Christian must pray and may be heard, yet there is a solemn person appointed to pray in public: and though God's Spirit is given to all that ask it, and the promises of the gospel are verified to all that obey the gospel of Jesus, yet God hath appointed sacraments and solemnities, by which the promises and blessings are ministered more solemnly, and to greater effects. All the ordinary devotions the people may do alone; the solemn, ritual, and public, the appointed minister only must do. And if any man shall say,—'Because the priest's ministry is by prayer, every man can do it, and, so, no need of him;'—by the same reason he may say also, that 'the sacraments are unnecessary, because the same effect which they produce, is also, in some degree, the reward of a private piety and devotion.' But the particulars are to be further proved and explicated as they need.

3. Now what for illustration of this article I have brought from the instance of Job, is true in the ministers of the gospel, with the superaddition of many degrees of eminency. But still in the same kind; for the power God hath given, is indeed mystical; but it is not like a power operating by way of natural or proper operation: it is not 'vis' but 'facultas,' not an inherent quality that issues out actions by way of direct emanation, like natural or acquired habits; but it is a grace or favour done to the person, and a qualification of him 'in genere politico;' he receives a politic, public, and solemn capacity, to intervene between God and the people. And although it were granted, that the people could do the external work, or the action of church-ministries, yet they are actions to no purpose; they want the life and the excellency,

unless they be done by such persons, whom God hath called to it, and by some means of his own hath expressed his purpose to accept them in such ministrations.

4. And this explication will easily be verified in all the particulars of the priest's power, because all the ministries of the gospel are 'in genere orationis' (unless we except preaching, in which God speaks by his servants to the people); the minister by his office is an intercessor with God, and the word used in Scripture for the priest's officiating, signifies his praying, λειτουργούντων δὲ αὐτῶν "as they were ministering or doing their liturgy," the work of their supplications and intercession; and therefore the apostles positively included all their whole ministry in these two,—"but we will give ourselves to the word of God, and to prayer;" the prayer of consecration, the prayer of absolution, the prayer of imposition of hands: they had nothing else to do but pray and preach. And for this reason it was, that the apostles, in a sense nearest to the letter, did verify the precept of our blessed Saviour, "Pray continually," that is, in all the offices, acts, parts, and ministries, of a daily liturgy.

5. This is not to lessen the power, but to understand it: for the priest's ministry is certainly the instrument of conveying all the blessings of the people, which are annexed to the ordinary administration of the Spirit. But when all the office of Christ's priesthood in heaven is called 'intercession' for us, and himself makes the sacrifice of the cross effectual to the salvation and graces of his church by his prayer,—since we are ministers of the same priesthood, can there be a greater glory than to have our ministry like to that of Jesus? not operating by virtue of a certain number of syllables, but by a holy, solemn, determined, and religious prayer, in the several manners and instances of intercession: according to the analogy of all the religions in the world, whose most solemn mystery was then most solemn prayer: I mean it in the matter of sacrificing; which also is true in the most mysterious solemnity of Christianity in the holy sacrament of the Lord's supper, which is hallowed and lifted up from the common bread and wine by mystical prayers and solemn invocations of God. And therefore St. Dionysius calls the form of consecration τελεστικὰς ἐπικλήσεις, "prayers of consecration:" and St. Cyril, in his third Mystagogick Catechism, says the same; "The eu-

charistical bread, after the invocations of the Holy Ghost, is not any longer that common bread, but the body of Christ[f]."

6. For although it be necessary, that the words, which, in the Latin church, have been, for a long time, called, 'the words of consecration' (which indeed are more properly 'the words of institution'), should be repeated in every consecration, because the whole action is not completed according to Christ's pattern, nor the death of Christ so solemnly enunciated without them, yet even those words also are part of a mystical prayer: and therefore as they are not only intended there ἐν εἴδει διηγήσεως, "by way of history" or narration, as St. Basil[g] mistakes; so also in the most ancient liturgies, they were not only read διηγηματικῶς, or as a mere narrative, but also with the form of an address, or invocation: "Fiat hic panis corpus Christi, et fiat hoc vinum sanguis Christi," "Let this bread be made the body of Christ," &c. So it is in St. James's liturgy, St. Clement's, St. Mark's, and the doctors'. And in the very recitation of the words of institution, the people ever used to answer, 'Amen;' which intimates it to have been a consecration 'in genere orationis,' called by St. Paul 'benediction,' or the bread of blessing. And therefore St. Austin[h], expounding these words of St. Paul, "Let prayers and supplications and intercessions and giving of thanks be made," saith, "Eligo in his verbis hoc intelligere, quod omnis vel pene omnis frequentat ecclesia, ut precationes accipiamus dictas, quas fecimus in celebratione sacramentorum, antequam illud, quod est in Domini mensa, accipiat benedici; orationes, cum benedicitur, et ad distribuendum comminuitur; quam totam orationem pene omnis ecclesia Dominicâ oratione concludit." The words and form of consecration he calls by the name of 'orationes,' 'supplications;' 'the prayers before the consecration, 'preces;' and all the whole action 'oratio:' and this is according to the style and practice and sense of the whole church, or very near the whole. And St. Basil[i] saith, that there is more necessary

[f] Ὁ ἄρτος τῆς εὐχαριστίας μετὰ τὴν ἐπίκλησιν τοῦ ἁγίου πνεύματος, οὐκέτι ἄρτος λιτὸς, ἀλλὰ σῶμα Χριστοῦ. Cap. ult. de Eccles. Hier.

[g] In Exposit. Liturg.

[h] Epist. 59. q. 5.

[i] Τὰ τῆς ἐπικλήσεως ῥήματα ἐπὶ τῇ ἀναδείξει τοῦ ἄρτου τῆς εὐχαριστίας, καὶ τοῦ ποτηρίου τῆς εὐλογίας τίς τῶν ἁγίων ἡμῖν καταλέλοιπεν; οὐ γὰρ τούτοις ἀρκούμεθα, ὧν ὁ ἀπόστολος, ἢ τὸ εὐαγγέλιον ἐπεμνήσθη, ἀλλὰ καὶ προλέγομεν, καὶ ἐπιλέγομεν ἕτερα ὡς μεγάλην ἔχοντα πρὸς τὸ μυστήριον τὴν ἰσχύν. Cap. 27. de Spir. S.

to consecration, than the words recited by the apostles and by the evangelists: "The words of invocation in the showing the bread of eucharist, and the cup of blessing, who of all the saints have left to us? For we are not content with those which the Apostle and the evangelists mention: but before and after, we say other words having great power towards the mystery, ἐκ τῆς ἀγράφου διδασκαλίας παραλαβόντες, 'which we have eceived by tradition.'" The words set down in Scripture they retained as a part of the mystery co-operating to the solemnity, manifesting the signification of the rite, the glory of the change, the operation of the Spirit, the death of Christ, and the memory of the sacrifice: but this great work which all Christians knew to be done by the Holy Ghost, the priest did obtain by prayer and solemn invocation: according to the saying of Proclus of Constantinople, speaking of the tradition of certain prayers used in the mysteries, and indited by the apostles, as it was said, but especially in St. James's liturgy: "By these prayers (saith he) they expected the coming of the Holy Ghost, that his divine presence might make the bread and the wine, mixed with water, to become the body and blood of our blessed Saviour."

7. And St. Justin Martyr[k] very often calls the eucharist, "food made sacramental and eucharistical by prayer:" and Origen[l], "We eat the bread holy, and made the body of Christ by prayer:" "verbo Dei et per obsecrationem sanctificatus," "bread sanctified by the word of God, and by prayer," viz. the prayer of consecration:—"prece mystica" is St. Austin's[m] expression of it:—"Corpus Christi et sanguinem dicimus illud tantum, quod, ex fructibus terræ acceptum, et prece mystica consecratum, ritè sumimus:" "That only we call the body and blood of Christ, which we receive of the fruits of the earth, and being consecrated by the mystical prayer, we take according to the rite."—And St. Jerome[n] chides the insolency of some deacons towards priests, upon this ground: "Who can suffer, that the ministers of widows and tables should advance themselves above those, at whose prayers the

[k] Τὴν δι' εὐχῆς εὐχαριστηθεῖσαν τροφήν.

[l] Apol. 2. pro Christianis, lib. 8. contra Cels. Προσαγομένους ἄρτους εὐθέμεν σῶμα γενομένους διὰ τὴν εὐχὴν ἁγίους τι. Matt. xv.

[m] Lib. 3. de Tri. cap. 4.

[n] Quis patiatur ut mensarum et viduarum minister supra eos se tumidum efferat, ad quorum preces, Christi corpus sanguisque conficitur?

body and blood of Christ are exhibited or made presential." —I add only the words of Damascen[o]; "The bread and wine are changed into the body and blood of Christ supernaturally by invocation and coming of the Holy Ghost."

8. Now whether this consecration by prayer, did mean to reduce the words of institution to the sense and signification of a prayer, or that they mean, the consecration was made by the other prayers annexed to the narrative of the institution, according to the several senses of the Greek and Latin church[p], yet still the ministry of the priest, whether in the words of consecration or in the annexed prayers, is still by way of prayer. Nay, further yet, the whole mystery itself is operative in the way of prayer, saith Cassander[q] in behalf of the school and of all the Roman church. And indeed St. Ambrose, and others of the fathers in behalf of the church Catholic, "Nunc Christus offertur, sed offertur quasi homo, quasi recipiens passionem, et offert seipsum quasi sacerdos, ut peccata nostra dimittat hic in imagine, ibi in veritate, ubi apud Patrem quasi advocatus intervenit." So that what the priest does here, being an imitation of what Christ does in heaven, is, by the sacrifice of a solemn prayer and by the representing the action and passion of Christ, which is effectual in the way of prayer and by the exhibiting it to God by a solemn prayer and advocation, in imitation of, and union with, Christ. All the whole office is an office of intercession, as it passes from the priest to God, and from the people to God. And then for that great mysteriousness, which is the sacramental change, which is that which passes from God unto the people by the priest, that also is obtained and effected by way of prayer. For since the Holy Ghost is the consecrator, either he is called down by the force of a certain number of syllables,—which that he will verify, himself hath no where described. And that he means not to do it, he hath fairly intimated, in setting down the institution in words of great vicinity to express the sense of the mystery,—but yet of so much difference and variety, as will show, this great change is not wrought by such certain and determined words, 'the blood of the New Testament,' so it is in St. Matthew and St.

[o] Ὁ τῆς προθέσεως ἄρτος οὐδὲν τι διὰ τῆς ἐπικλήσεως καὶ ἐπιφοιτήσεως τοῦ ἁγίου πνεύματος ὑπερφυῶς μεταποιοῦνται εἰς τὸ σῶμα τοῦ χριστοῦ, καὶ τὸ αἷμα. Lib. 4. de Fide, cap. 14. Vide Optat. lib. 6. contra Parmen.

[p] St. Cyprian, lib. 7. cap. ult. Eusebius Emissen. serm. 5. de Pascat.

[q] De Iterationa in Consultat.

Mark; 'the New Testament in my blood,' so St. Paul and St. Luke; "My body which is broken, my body which is given," &c. and to think otherwise, is so near the gentile rites, and the mysteries of Zoroastres, and the secret operations of the Enthei, and the heathen priests, that unless God had declared expressly such a power to be affixed to the recitation of such certain words, it is not, with too much forwardness, to be supposed true in the spirituality of the gospel.

9. But if the Spirit descends not by the force of syllables, it follows he is called down by the prayers of the church, presented by the priests;—which indeed is much to the honour of God and of religion, an endearment of our duty, is according to the analogy of the gospel, and a proper action or part of spiritual sacrifice, that great excellency of evangelical religion.

10. For what can be more apt and reasonable to bring any great blessing from God than prayer, which acknowledges him the fountain of blessing, and yet puts us into a capacity of receiving it by way of moral predisposition, that holy graces may descend into holy vessels, by holy ministries and conveyances? And none are more fit for the employment than prayers, whereby we bless God, and bless the symbols, and ask that God may bless us, and by which every thing is sanctified, viz. 'by the word of God and prayer,' that is, by God's benediction and our impetration;—according to the use of the word in the saying of our blessed Saviour, "Man lives by every word that proceeds out of the mouth of God:" that is, by God's blessing; to which, prayer is to be joined, that we may co-operate with God in a way most likely to prevail with him. And they are excellent words which Cassander[r] hath said to the purpose; "Some apostolical churches from the beginning used such solemn prayers to the celebration of the mysteries; and Christ himself, beside that he recited the words (of institution), he blessed the symbols before and after, and sung an ecclesiastical hymn." And therefore the Greek churches, which have with more severity kept the first and most ancient forms of consecration than the Latin church, affirm that the consecration

[r] Atque hinc adeò credo Apostolicas ipsas, jam inde ab initio, ecclesias aliquas hujusmodi preces ad mysteriorum celebrationem adhibuisse; imò Christum ipsum non solâ verborum recitatione, sed etiam eulogiâ ante ipsam mysteriorum confectionem, et postea hymno usum fuisse manifestum est. De Iteratione.

is made by solemn invocation alone, and the very recitation of the words spoken in the body of a prayer, are used for argument to move God to hallow the gifts, and as an expression and determination of the desire. And this[s] Gabriel of Philadelphia observes out of an apostolical liturgy, "The words of our Lord προηγουμένως 'antecedently,' and by way of institution and incentive, are the form, together with the words, which the priest afterward recites, according as it is set down in the divine liturgy." It is supposed he means the liturgy reported to be made by St. James, which is of the most ancient use in the Greek church. And all liturgies in the world in their several canons of communion, do now, and did for ever, mingle solemn prayers together with recitation of Christ's words: the church of England does most religiously observe it according to the custom and sense of the primitive liturgies; who always did believe the consecration not to be a natural effect and change, finished in any one instant, but a divine alteration consequent to the whole ministry,—that is, the solemn prayer and invocation.

11. Now if this great ministry be by way of solemn prayer, it will easier be granted that so the other are. For absolution and reconciliation of penitents I need say no more, but the question of St. Austin[t]; "Quid est aliud manûs impositio, quàm oratio super hominem?"—And the priestly absolution is called by St. Leo[u], "sacerdotum supplicationes," "the prayers of priests," and in the old 'Ordo Romanus,' and in the Pontifical, the forms of reconciliation were, "Deus te absolvat," "The Lord pardon thee," &c.—But whatsoever the forms were (for they may be optative, or indicative, or declarative), the case is not altered as to this question: for whatever the act of the priest be, whether it be the act of a judge, or of an ambassador, or a counsellor, or a physician, or all this; the blessing which he ministers, is by way of a solemn prayer, according to the exigence of the present rite: and the form of words does not alter the case: for "Ego benedico," "Deus benedicat," is the same; and was no more when God commanded the priest in express terms to bless the people: only the church, of late, chooses the indicative form, to

[s] Τὸ εἶδος προηγουμένως μὲν τὰ κυριακὰ λόγια συνεπόμενα ἔχον, καὶ τὰ ὑπὸ τῶν ἱερέως ἐφεξῆς λεγόμενα ῥήματα, καθάπερ ἐν τῇ θείᾳ φέρεται λειτουργίᾳ.

[t] Lib. 3. de Bap. contr. Donat. cap. 16. [u] Epist. 91.

signify, that such a person is, by authority and proper designation, appointed the ordinary minister of benediction. For in the sense of the church and Scripture, none can give blessing but a superior, and yet every person may say in charity, 'God bless you;' he may not be properly said to bless, 'for the greater is not blessed of the lesser,' by St. Paul's rule. The priest may bless, or the father may, and yet their benediction (save that it signifies the authority and solemn deputation of the person to such an ordinary ministry) signifies but the same thing; that is, it operates by way of prayer; but is therefore prevalent and more effectual, because it is by persons appointed by God. And so it is in absolution; for he that ministers the pardon, being the person that passes the act of God to the penitent, and the act of the penitent to God, is by way of prayer and by the mediation of intercession; for there is none else in this imaginable; and the other, of passing God's act upon the penitent, is by way of interpretation and enunciation, as an ambassador, and by the word of his ministry. "In persona Christi condonavi," "I pardon in the person of Christ," saith St. Paul: in the first, he is ἱερεὺς, ἐπικαλῶν, εὐχόμενος, μεσιτεύων, εὐχαριστήσας; in the second, he is ὑποφήτης, ἐκφαντορικός: in both, a minister of divine benediction to the people; the anointing from above descends upon Aaron's beard, and so by degrees to the skirts of the people. And yet in those things, which the priest or the prophet does but signify by divine appointment, he is said to do the thing, which he only signifies and makes public as a minister of God: thus God sent [x] Jeremy; "He set him over the nations to root out, and to pull down, and to destroy, to throw down, and to build, and to plant;" and yet, in all this, his ministry was nothing but prophetical: and he that converts a sinner, is said to 'save him,' and to 'hide a multitude of sins;' that is, he is instrumental to it and ministers in the employment; so that here also, 'verbum est oratio,' the word of God and prayer do transact both the parts of this office. And I understand, though not the degree and excellency, yet the truth of this manner of operation in the instance of Isaac blessing Jacob, which in the several parts was expressed in all forms, "indicative, optative, enunciative;" and yet there is no question but it was intended to do Jacob

[x] Jer. i. 10.

benefit by way of impetration; so that although the church may express the acts of her ministry in what form she please, and with design to make signification of another article, yet the manner of procuring blessings and graces for the people is by a ministry of interpellation of prayer, we having no other way of address or return to God but by petition and eucharist.

12. I shall not need to instance any more. St. Austin[y] sums up all the ecclesiastical ministries in an expression fully to this purpose; "Si ergo, ad hoc valet quod dictum est in evangelio, 'Deus peccatorem non audit,' aut, 'per peccatorem sacramenta non celebrentur,' quomodo exaudit deprecantem vel super aquam baptismi, vel super oleum, vel super eucharistiam, vel super capita eorum, super quibus manus imponitur?" with St. Austin, praying over the symbols of every sacrament, and sacramental, is all one with celebrating the mystery. And therefore in the office of consecration[z] in the Greek church, this power passes upon the person ordained, "that he may be worthy to ask things of thee for the salvation of the people,"—that is, to celebrate the sacraments and rites, "and that thou wilt hear him:" which fully expresses the sense of the present discourse, that the first part of that grace of the Holy Spirit which consecrates the priest, the first part of his sanctification, is a separation of the person to the power of intercession for the people, and a ministerial mediation, by the ministration of such rites and solemn invocations, which God hath appointed or designed.

13. And now this sanctification, which is so evident in Scripture, tradition, and reason, taken from proportion and analogy to religion, is so far from making the power of the holy man less than is supposed, that it shows the greatness of it by a true representment; and preserves the sacredness of it so within its own cancels, that it will be the greatest sacrilege in the world to invade it; for, whoever will boldly enter within this veil, "nisi qui vocatur, sicut Aaron," unless he be sanctified as is the priest, who is συνιερτύσας τῷ Χριστῷ, as Nazianzen calls him, "a minister co-operating with Christ," he does without leave call himself a man of God, a mediator between God and the people under Christ,—he boldly thrusts

[y] Lib. 31. de Bapt. contr. Donat. cap. 20.

[z] Εὐχ. in Consecrat. Episc. Εἰς τὸ ἄξιον γένεσθαι τοῦ αἰτεῖν αὐτὸν τὰ πρὸς σωτηρίαν τοῦ λαοῦ, καὶ ἐπακούειν σε αὐτοῦ.

himself into the participation of that glorious mediation, which Christ officiates in heaven; all which things, as they are great honours to the person, rightly called to such vicinity and endearments with God,—so they depend wholly upon divine dignation of the grace and vocation of the person.

14. Now for the other part of spiritual emanation or descent of graces in sanctification of the clergy, that is in order to the performance of the other, ὅπως ὁ φιλάνθρωπος θεὸς ἡμῶν ἄσπιλον καὶ ἀμώμητον αὐτῷ τὴν ἱερωσύνην χαρίσηται; that is the sense of it, "that God, who is the lover of souls, may grant a pure and unblamable priesthood;" and certainly they who are honoured with so great a grace as to be called to officiate in holy and useful ministries, have need also of other graces to make them persons holy in habit and disposition, as well as holy in calling,—and therefore God hath sent his Spirit to furnish his emissaries with excellences proportionable to their need and the usefulness of the church. At the beginning of Christianity, God gave gifts extraordinary, as boldness of spirit, fearless courage, freedom of discourse, excellent understanding, discerning of spirits, deep judgment, innocence and prudence of deportment, the gift of tongues. These were so necessary at the institution of the Christian church, that, if we had not had testimony of the matter of fact, the reasonableness of the thing would prove the actual dispensation of the Spirit; because God never fails in necessaries: but afterward, when all the extraordinary needs were served, the extraordinary stock was spent, and God retracted those issues into their fountains, and then the graces that were necessary for the well discharging the ἐπίκλησις μεσιτείας, 'the priestly function,' were such as make the person of more benefit to the people, not only by being exemplary to them, but gracious and loved by God: and those are spiritual graces of sanctification.

15. And therefore ordination is a collation of holy graces of sanctification; of a more excellent faith, of fervent charity, of providence and paternal care: gifts which now descend not by way of miracle, as upon the apostles, but are to be acquired by human industry, by study and good letters, and therefore are presupposed in the person to be ordained: to which purpose the church now examines the abilities of the man, before she lays on hands: and therefore the church

does not suppose that the Spirit in ordination descends in gifts, and in the infusion of habits, and perfect abilities (though then also, it is reasonable to believe that God will assist the pious and careful endeavours of holy priests, and bless them with special aids and co-operation, because a more extraordinary ability is needful for persons so designed); but the proper and great aid which the Spirit of ordination gives, is such instances of assistance which make the person more holy.

16. And this is so certainly true, that even when the Apostle had ordained Timothy to be bishop of Ephesus, he calls upon him to "stir up the gift of God, which was in him by the putting on of hands;" and that gift is a rosary of graces,—what graces they are, he enumerates in the following words: "God hath not given us the spirit of fear, but of power, of love, *καὶ σωφρονισμοῦ*, and of a modest and sober mind;" and these words are made part of the form of collating the episcopal order in the church of England. Here all that descends from the Spirit in ordination, is *δύναμις*, 'power,' that is, to officiate and intercede with God in the parts of ministry: and the rest are such as imply duty, such as make them fit to be a ruler in paternal and sweet government, "modesty, sobriety, love." And therefore in the forms of ordination of the Greek church (which are therefore highly to be valued, because they are most ancient, have suffered the least change, and been polluted with fewer interests), the mystical prayer of ordination names graces in order to holiness: "We pray thee, that the grace of the ever holy Spirit may descend upon him, [a] fill him full of all faith and love and power and sanctification, by the illumination of thy holy and life-giving Spirit." And the reason why these things are desired and given, is in order to the right performing his holy offices, [b] "that he may be worthy to stand without blame at thy altar, to preach the gospel of thy kingdom, to minister the words of thy truth, to bring to thee gifts, and spiritual sacrifices, to renew the people with the laver of regeneration."

[a] Πλήρωσον πάσης πίστεως καὶ ἀγάπης, καὶ δυνάμεως καὶ ἁγιασμοῦ, τῇ ἐπιφοιτήσει τοῦ ἁγίου ζωοποιοῦ σου πνεύματος.

[b] Ἵνα γένηται ἄξιος παραστῆναι ἀμέμπτως τῷ θυσιαστηρίῳ σου, κηρύσσειν τὸ εὐαγγέλιον τῆς βασιλείας σου, ἱερουργεῖν λόγον τῆς ἀληθείας σου, προσφέρειν σοι δῶρα καὶ θυσίας πνευματικὰς, ἀνακαινίζειν τὸν λαόν σου διὰ τοῦ λουτροῦ τῆς παλιγγενεσίας.

17. And therefore St. Cyril[c] says that "Christ's saying, 'Receive ye the Holy Ghost,' signifies grace given by Christ to the apostles, whereby they were sanctified:"—that 'by the Holy Ghost they might be absolved from their sins,' saith Haymo[d]; and St. Austin[e] says, that 'many persons that were snatched violently to be made priests or bishops, who had, in their former purposes, determined to marry and live a secular life, have, in their ordination, received the gift of continency.' And therefore there was reason for the greatness of the solemnities used in all ages in separation of priests from the world, insomuch that whatsoever was used in any sort of sanctification of solemn benediction by Moses' law, all that was used in consecration of the priest, who was to receive the greatest measure of sanctification. "Eadem item vis etiam sacerdotem, augustum et honorandum facit, novitate benedictionis à communitate vulgi segregatum. Cum enim heri unus è plebe esset, repente redditur præceptor, præses, doctor pietatis, mysteriorum latentium præsul, &c. Invisibili quadam vi ac gratia invisibilem animam in melius tranformatam gerens;" that is, improved in all spiritual graces: which is highly expressed by Martirius[f], who said to Nectarius, "Tu, ô beate, recens baptizatus et purificatus, et mox insuper sacerdotio auctus es; utraque autem hæc peccatorum expiatoria esse Deus constituit:" which are not to be expounded as if ordination did confer the first grace, which in the schools is understood only to be expiatorious; but the increment of grace and sanctification; and that also is remissive of sins, which are taken off by parts as the habit decreases; and we grow in God's favour, as our graces multiply or grow.

18. Now that these graces, being given in ordination, are immediate emanations of the Holy Spirit, and therefore not to be usurped or pretended to by any man, upon whom the Holy Ghost in ordination hath not descended, I shall less need to prove, because it is certain upon the former grounds, and will be finished in the following discourses; and it is in the Greek ordination given as a reason of the former prayer;

[c] Gratiam apostolis à Christo collatam, qua sanctificarentur: ut per Spiritum Sanctum à propriis peccatis absolverentur. Lib. 12. in Iohan. cap. 56.

[d] Homil. in 8vas. Pasch.

[e] Lib. 2. cap. ult. de Adulter. Conjug.

[f] Soz. lib. 7. cap. 10.

Οὐ γὰρ ἐν τῇ ἐπιθέσει τῶν ἐμῶν χειρῶν, ἀλλ' ἐν τῇ ἐπισκοπῇ τῶν πλουσίων σου οἰκτιρμῶν δίδοται χάρις τοῖς ἀξίοις σου. "For not in the imposition of my hands, but in the overseeing providence of thy rich mercies, grace is given to them that are worthy." So that, we see, more goes to the fitting of a person for ecclesiastical ministries than is usually supposed; together with the power, a grace is specially collated, and that is not to be taken up and laid down, and pretended to by every bolder person. The thing is sacred, separate, solemn, deliberate, derivative from God; and not of human provision, or authority, or pretence, or disposition.

SECT. VIII.

1. THE Holy Ghost was the first consecrator, that is made evident; and the persons first consecrated were the apostles, who received the several parts of the priestly order, at several times; the power of consecration of the eucharist, at the institution of it; the power of remitting and retaining sins in the octaves of Easter; the power of baptizing and preaching, together with universal jurisdiction, immediately before the ascension, when they were commanded to go into all the world preaching and baptizing. This is the whole office of the priesthood; and nothing of this was given in Pentecost when the Holy Spirit descended and rested upon all of them,—the apostles, the brethren, the women: for then they received those great assistances which enabled them, who had been designed for ambassadors to the world, to do their great work: and others of a lower capacity had their proportion, as the effect of the promise of the Father, and a mighty verification of the truth of Christianity.

2. Now all these powers, which Christ hath given to his apostles, were, by some means or other, to be transmitted to succeeding persons, because the several ministries were to abide for ever. All nations were to be converted, a church to be gathered and continued, the new converts to be made confessors and consigned with baptism, sins to be remitted, flocks to be fed and guided, and the Lord's death declared, represented, exhibited, and commemorated, until his second

coming. And since the powers of doing these offices, are acts of free and gracious concession, emanations of the Holy Spirit, and admissions to a vicinity with God, it is not only impudence and sacrilege in the person, falsely to pretend, that is, to belie the Holy Ghost, and thrust into these offices;—but there is an impossibility in the thing, it is null in the very deed doing, to handle these mysteries without some appointment by God; unless he calls and points out the person, either by an extraordinary or by an ordinary vocation. Of these I must give a particular account.

3. The extraordinary calling was first, that is, the immediate; for the first beginning of a lasting necessity is extraordinary, and made ordinary in succession, and by continuation of a fixed and determined ministry. The first of every order hath another manner of constitution, than all the whole succession. The rising of the spring is of greater wonder, and of more extraordinary and latent reason, than the descent of the current; and the derivation of the powers of the Holy Ghost, that make the priestly order, are just like the creation: the first man was made with God's own hands, and all the rest by God, co-operating with a human act; and there is never the same necessity, as at first, for God to create man. The species or kind shall never fail, but be preserved in an ordinary way: and so it is in the designation of the ministers of evangelical priesthood; God breathed into the apostles τὸ πανάγιον καὶ ζωοποιὸν πνεῦμα, "the breath of the life-giving Spirit;" and that breath was to be continued in a perpetual, univocal production; they who had received, they were also to give: and they only could.

4. Grace cannot be conveyed to any man, but either by the fountain, or by the channel: by the author, or by the minister. God only is the fountain and author: and he that makes himself the minister, whom God appointed not, does, in effect, make himself the author: for he undertakes to dispose of grace which he hath not received, and to give God's goods upon his own authority: which he that offers at, without God's warrant, does it only upon his own. And so either he is the author, or a usurper,—either the fountain, or a dry cloud; which in effect calls him either blasphemous or sacrilegious.

5. But the first and immediate derivation from the fountain,

that only I affirm to be miraculous, and extraordinary: as all beginnings of essences and graces of necessity must: those persons who receive the first issues, they only are extraordinarily called: all that succeed are called or designed by an ordinary vocation, because whatsoever is in the succession is but an ordinary necessity, to which God hath proportioned an ordinary ministry; and when it may be supplied by the common provisions, to look for an extraordinary calling, is as if a man should expect some new man to be created, as Adam was; it is to suppose God will multiply beings and operations without necessity. God called at first; and if he had not called, man could not have come to him in this nearness of a holy ministry: he sent persons abroad, and if he had not sent, they could not have gone: but after that he had appointed, by his own designation, persons, who should be fathers in Christ, he called no more, but left them to call others: he first immediately gives the χάρισμα, 'the grace,' and leaves this as a 'depositum' to the church, faithfully to be kept till Christ's second coming. And this 'depositum' is the doctrine and discipline of Jesus: he opens the door, and then left it open, commanding all to come in that way, into the ministry and tuition of the flock,—calling all, that came in by windows and posterns and oblique ways, "thieves and robbers." And it is observable, that the word 'vocation' or 'calling,' in Scripture, when it is referred to a designation of persons to the ministry, it always signifies that which we term, 'calling extraordinary;' it always signifies, an immediate act of God; which also ceased when the great necessity expired,—that is, when the fountain had streamed forth abundantly, and made a current to descend without interruption. The purpose of this discourse is, that now no man should, in these days of ordinary ministry, look for an extraordinary calling, nor pretend, in order to vainer purposes, any new necessities.

6. They are fancies of a too confident opinion, and overvaluing of ourselves, when we think the very being of a church is concerned in our mistakes; and if all the world be against us, we are not ashamed of our folly, but think truth is failed from among the children of men, and the church is at a loss, and the current derived from the first

emanations is dried up, and then he that is boldest to publish his follies, is also as apt to mistake his own boldness for a call from God, as he did at first his own vain opinion for a necessary truth; and then he is called extraordinarily, and so ventures into the secrets of the sanctuary. First, he made a necessity more than ever God made, and then himself finds a remedy that God never appointed. He that thinks every shaking of the ark is absolute ruin to it, when peradventure it was but the weakness of his own eyes that made him fancy what was not, may also think he hears a call from above to support it, which indeed was nothing but a noise in his own head: and there is no cure for this, but to cure the man, and set his head right. For he that will pretend any thing that is beyond ordinary, as he that will say he hath two reasonable souls within him, or three wills, is not to be confuted but by physic, or by the tying him to abjure his folly till he were able to prove it.

7. But God,—by promising that his church should abide for ever, and that "the gates of hell should not prevail against it," but that himself would be "with her to the end of the world,"—hath sufficiently confuted the vanity of those men, who, that they might thrust themselves into an office, pretend the dissolution of the very being of the church: for if the church remains in her being, let her corruptions be what they will, the ordinary prophets have power to reform them; and if they do not, every man hath power to complain, so he does it with peace, and modesty, and truth, and necessity.

8. And there is no need of an extraordinary calling to amend such things which are certain, foreseen, events; and such were heresies and corruption in doctrine and manners, for which God appointed an ordinary ministry to take cognizance and make a remedy; for which himself, when he had told us "heresies must needs be," yet made no provisions extraordinary, but left the church sufficiently instructed by her rule, and guided by her pastors.

9. When Christ means to give us a new law, then he will give us a new priesthood, a new ministry: one will not be changed without the other. God now no more comes in a mighty rushing wind, but in a still voice, in the gentle homi-

lies of ordinary prophets. And now that the law, by which we are to frame our understandings and our actions, is established, we must not expect an apostle to correct every abuse; for if they will not hear Moses and the prophets, if one should come from the dead, or an angel come from heaven,—it is certain they will not be entertained, but till the wonder be over, and the curiosity of news be satisfied.

10. Against this, it is pretended that Christ promised "to be with his church for ever," upon condition the church would do their duty; but they, being but a company of men, have power to choose, and they may choose amiss; and if all should do so, Christ's promises may fail us, though not fail of their intentions; and, then, in this case, the church failing, either there must be an extraordinary calling of single persons, or else any man may enter into the ordinary way, which is all one with an extraordinary: for it is extraordinary that common persons should, by necessity, be drawn into an employment, which, by ordinary vocation, they are not to meddle with.

11. Against this we can (thanks be to God for it) pretend the experience of sixteen ages; for hitherto it hath ever been in the Christian churches, that God hath preserved a holy clergy in the same proportion as he hath preserved a holy people; never yet were the clergy all antichristian, in the midst of Christian churches; and we have no reason to fear it will be so now, after so long an experience to expound the promises of our Lord to the sense of a perpetual ministry, and a perpetual church, by the means of ordinary ministrations.

12. And how shall the church be supposed to fail, since God hath made no provisions for its restitution? For by what means should the church be renewed, and Christianity restored? Not by Scripture: for we have no certainty that the Scriptures, which we have this day, are the same which the apostles delivered, and shall remain so for ever,—but only 1. The reputation and testimony of all Christian churches (which also transmit the same by a continual successive testimony to the following, or else they will be of an uncertain faith), and, 2. The confidence of the Divine Providence and goodness, who will not let us want what is fit for us, that, without which, we cannot attain the end, to which in mercy

he hath designed us. Now the same arguments, which we have for the continuation of Scripture, we have for the perpetuity of a Christian clergy, that is, besides the so long actual succession and continuance, we have the goodness and unalterable sweetness of the divine mercies, who will continue such ministries, which himself hath made the ordinary means of salvation; he would not have made them the way to heaven and of ordinary necessity, if he did not mean to preserve them. Indeed, if the ordinary way should fail, God will supply another way to them that do their duty; but then Scripture may as well fail as the ordinary succession of the clergy: they both were intended as but the ordinary ministries of salvation, and if Scripture be kept for the use of the church, it is more likely the church will be preserved in its necessary constituent parts than the Scripture; because Scripture is preserved for the church, it is kept that the church might not fail. For as for the fancy, that all men, being free agents, may choose amiss: suppose that; but then, may they not all consent to the corruption or destroying of Scripture? yea, but God will preserve them from that, or will overrule the event; yea, but how do they know that? what revelation have they? yet grant that too, but why then will he not also overrule the event of the matter of universal apostasy? for both of them are matter of choice.

13. But then that all the clergy should consent to corrupt Scripture, or to lose their faith, is a most unreasonable supposition; for supposing there is a natural possibility, yet it is morally impossible; and we may as well fear, that all the men of the world will be vicious upon the same reason; for if all the clergy may, then all the people may; and you may as well poison the sea, as poison all the springs; and it is more likely all the idiots, and the ordinary persons in the world, should be cozened out of their religion, than that all the wise men and 'antistites,' the teachers, doctors, and public ministers of religion, should. And when all men turn mariners, or apothecaries, or that all men will live single lives, and turn monks, and so endanger the species of mankind to perish (for there is a great fear of that too); that is, when all the world choose one thing (for if two men do, two thousand may do it if they will, and so may all, upon this ground); then also we may fear, that all the governors of the church

may fail, because some do, and more have, and all may; till then, there will be no need of an extraordinary commission; but the church shall go on upon the stock of the first calling and designation, which were extraordinary. The Spirit issued out at first miraculously, and hath continued running still in the first channels by ordinary conduct, and in the same conveyances it must run still, or it cannot, without a miracle, derive upon us, who stand at infinite distance from the fountain. Since then, there is now no more expectation of an extraordinary calling (and to do so were an extraordinary vanity), it remains, that the derivation of the ministerial power be by an ordinary conveyance.

14. The Spirit of God in Scripture hath drawn a line, and chalked out the path that himself meant to tread, in giving the graces of evangelical ministrations. At first, after that Christ had named twelve (one whereof was lost), they, not having an express command for the manner of ordination, took such course, as reason and religion taught them. They named two persons, and prayed God to choose one, and to manifest it by lot; which was a way less than the first designation of the other eleven; and yet had more of the extraordinary in it, than could be reasonably continued in an ordinary succession. The apostles themselves had not as yet received skill enough how to officiate in their ordinary ministry, because the Holy Ghost was not as yet descended.

15. But when the Holy Ghost descended, then the work was to begin; the apostles wanted no power necessary for the main work of the gospel; but now also they received commissions to dispense the Spirit to all such purposes, to which he was intended. They before had the office in themselves, but it was not communicable to others, till the Spirit, the anointing from above, ran over the fringes of the priests' garments; they had it but in imperfection and inactive faculties; so saith Theophylact[1]: "He breathed, not now giving to them the perfect gift of the Holy Ghost; for that he intended to give at Pentecost: but he prepared them for the fuller reception of it." They had the gift before, but not the perfect consummation of it; that was reserved for the great

[1] Ἐμφυσᾷ, οὐ τὴν τελείαν δωρεὰν τοῦ ἁγίου πνεύματος νῦν αὐτοῖς νέμων, ταύτην γὰρ ἐν τῇ πεντηκοστῇ ἔμελλε δώσειν, ἀλλὰ πρὸς ὑποδοχὴν τοῦ πνεύματος ἐπιτηδείους αὐτοὺς ποιῶν. In 20. Johan.

day; and because the power of consecration is the τελείωσις or 'perfection' of priestly order, it was the proper emanation of this day's glory; then was the ἱερατικὴ τελείωσις, the perfection of what power Christ had formerly consigned. For of all faculties, that is not perfect, which produces perfect and excellent actions in a direct line, actions of a particular sort; but that which produces the actions, and enables others to do so too; for then the perfection is inherent, not only formally, but virtually and eminently; and that is the crown of habits and natural faculties. Now besides the reasonableness of the thing, this is also verified by a certainty that will not easily fail us; by experience, and 'ex post facto:' for as we do not find the apostles had, before Pentecost, a productive power, which made them call for a miracle, or a special providence by lots; so we are sure, that immediately after Pentecost they had it: for they speedily began to put it in execution; and it is remarkable, that the apostles did not lay hands upon Matthias: he being made apostle before the descent of the Holy Ghost, they had no power to do it, they were not yet made ministers of the Spirit; which because afterward presently they did, concludes fairly, that, at Pentecost, they were, amongst other graces, made the ordinary ministers of ordination.

16. This I say is certain, that, the Holy Ghost descending at Pentecost, they instantly did officiate in their ministerial offices, they preached, they baptized, they confirmed and gave the Holy Spirit of obsignation, and took persons into the lot of their ministry, doing of it by an external rite and solemn invocation. And now the extraordinary way did cease; God was the fountain of the power, but man conveyed it by an external rite: and of this, St. Paul, who was the only exception from the common way, takes notice; calling himself an apostle, "not of man, nor by man, but by Jesus Christ;" implying, that he had a special honour done, to be chosen an apostle in an extraordinary way; therefore others might be apostles, and yet not so as he was; for else his expression had been all one, as if one should say, 'Titus the son of a man, not begotten of an angel, or spirit, nor produced by the sun or stars, but begotten by a man of a woman:' the discourse had been ridiculous, for no man is born otherwise; and yet he also had something of the ordinary too; for in

an extraordinary manner he was sent to be ordained in an ordinary ministry. And yet because the ordinary ministry was settled, St. Paul was called to an account for so much of it as was extraordinary; and was tied to do that, which every man now is bound to do, that shall pretend a calling extraordinary,—viz. to give an extraordinary proof of his extraordinary calling:—which when he had done in the college of Jerusalem, the apostles gave him the right hand of fellowship, and approved his vocation; which also shows, that now the way of ordination was fixed and declared to be by human ministry; of which I need no other proof but the instances of ordinations recorded in Scripture, and the no instances to the contrary, but of St. Paul, whose designation was as immediate as that of the eleven apostles, though his ordination was not. I end this with the saying of Job[m] the monk: "Concerning the order of priesthood, it is supernatural and unspeakable. He that, yesterday, and the day before, was in the form of idiots and private persons,—to-day, by the power of the Holy Ghost, and the voice of the chief-priest, and laying on of hands, receives so great an improvement and alteration, that he handles, and can consecrate, the divine mysteries of the holy church, and becomes (under Christ) a mediator (ministerial) between God and man, and exalted to hallow himself and sanctify others:" the same almost with the words of Gregory Nyssen, in his book 'de Sancto Baptismate.'

17. This is the sum of the preceding discourses. God is the consecrator; man is the minister; the separation is mysterious and wonderful; the power great and secret; the office to stand between God and the people, in the ministry of the evangelical rites; the calling to it ordinary, and by a settled ministry, which began after the descent of the Holy Ghost in Pentecost.

18. This great change was in nothing expressed greater, than that Saul upon his ordination changed his name; which St. Chrysostom[n] observing, affirms the same of St. Peter. I conclude, "Differentiam inter ordinem et plebem

[m] Ὁμοίως δὲ καὶ ἐπὶ τῆς ἱερωσύνης ὑπερφυὲς καὶ ἄῤῥητον χθὲς καὶ πρώην ὄντά τινα τῶν πολλῶν καὶ ἵνα τῶν τυγχανόντων ἰδιωτῶν, ἄρτι καὶ σήμερον, πνεύματος ἁγίου δυνάμει καὶ ἀρχιερέως φωνῇ καὶ δεξιᾶς ἐπιθέσει τοσαύτην ἀλλοίωσιν κρείττονα δέξασθαι, καὶ τοσοῦτον ἀποκαθίστασθαι, ὥστε τὰ θεῖα μυστήρια τῆς ἱερᾶς ἐκκλησίας τελεῖν δύνασθαι, καὶ μεσίτην θεοῦ καὶ ἀνθρώπων γίνεσθαι ἑαυτόν τε καὶ τοὺς ἄλλους ἁγιάζειν. Tract. de Sacrament.

[n] Homil. 28. in Acta 18.

constituit ecclesiæ auctoritas et honor per ordinis concessum sanctificatus à Deo," saith Tertullian[k]: "The authority of the whole church of God hath made distinction between the person ordained and the people, but the honour and power of it are derived from the sanctification of God."—It is derived from him, but conveyed by an ordinary ministry of his appointing.—Whosoever therefore, with unsanctified, that is, with unconsecrated, hands, shall dare to officiate in the ministerial office, separate by God, by gifts, by graces, by public order, by an established rite, by the institution of Jesus, by the descent of the Holy Ghost, by the word of God, by the practice of the apostles, by the practice of sixteen ages of the Catholic church, by the necessity of the thing, by reason, by analogy to the discourse of all the wise men that ever were in the world;—that man, like his predecessor Korah, brings an unhallowed censer, which shall never send up a right cloud of incense to God, but yet that unpermitted; and disallowed smoke shall kindle a fire, even the wrath of God, which shall at least destroy the sacrifice: 'his work shall be consumed;' and when, upon his repentance, himself escapes, yet it shall be 'so as by fire,' that is, with danger, and loss, and shame, and trouble. "For our God is a consuming fire."

[k] Exhort. ad Castitat.

Remember Korah and all his company.

Ἅγιος, ἰσχυρός.

RULES AND ADVICES

TO THE

CLERGY

OF THE

DIOCESS OF DOWN AND CONNOR,

FOR THEIR DEPORTMENT IN THEIR PERSONAL AND PUBLIC CAPACITIES:

GIVEN AT THE VISITATION OF LISNEGARVEY.

RULES AND ADVICES

TO THE

CLERGY.

I.—*Personal Duty.*

1. Remember, that it is your great duty, and tied on you by many obligations, that you be exemplar in your lives, and be patterns and precedents to your flocks: lest it be said unto you, "Why takest thou my law into thy mouth, seeing thou hatest to be reformed thereby?" He that lives an idle life, may preach with truth and reason, or as did the pharisees; but not as Christ, or as one having authority.

2. Every minister, in taking accounts of his life, must judge of his duty by more strict and severe measures, than he does of his people; and he that ties heavy burdens upon others, ought himself to carry the heaviest end; and many things may be lawful in them, which he must not suffer in himself.

3. Let every minister endeavour to be learned in all spiritual wisdom, and skilful in the things of God; for he will ill teach others the way of godliness, perfectly, that is himself a babe and uninstructed. An ignorant minister is a head without an eye; and an evil minister is salt, that hath no savour.

4. Every minister, above all things, must be careful, that he be not a servant of passion, whether of anger or desire. For he that is not master of his passions, will always be useless, and quickly will become contemptible and cheap in the eyes of his parish.

5. Let no minister be litigious in any thing; not greedy or covetous; not insisting upon little things, or quarrelling for, or exacting of, every minute portion of his dues; but bountiful and easy; remitting of his right, when to do so may be useful to his people, or when the contrary may do

mischief, and cause reproach. "Be not over-righteous," saith Solomon, that is, 'not severe in demanding, or forcing every thing,' though it be indeed his due.

6. Let not the name of the church be made a pretence for personal covetousness; by saying, 'You are willing to remit many things, but you must not wrong the church:' for though it be true, that you are not to do prejudice to succession, yet many things may be forgiven upon just occasions, from which the church shall receive no incommodity: but be sure that there are but few things, which thou art bound to do in thy personal capacity,—but the same also, and more, thou art obliged to perform, as thou art a public person.

7. Never exact the offerings, or customary wages, and such as are allowed by law, in the ministration of the sacraments; nor condition for them, nor secure them beforehand: but first do your office, and minister the sacraments purely, readily, and for Christ's sake; and when that is done, receive what is your due.

8. Avoid all pride, as you would flee from the most frightful apparition, or the most cruel enemy; and remember, that you can never truly teach humility, or tell what it is, unless you practise it yourselves.

9. Take no measures of humility, but such as are material and tangible; such which consist not in humble words, and lowly gestures, but what is first truly radicated in your souls, in low opinion of yourselves, and in real preferring others before yourselves; and in such significations, which can neither deceive yourselves nor others.

10. Let every curate of souls strive to understand himself best; and then to understand others. Let him spare himself least; but most severely judge, censure, and condemn, himself. If he be learned, let him show it by wise teaching, and humble manners. If he be not learned, let him be sure to get so much knowledge as to know that,—and so much humility, as not to grow insolent, and puffed up by his emptiness. For many will pardon a good man, that is less learned; but if he be proud, no man will forgive him.

11. Let every minister be careful to live a life as abstracted from the affairs of the world, as his necessity will permit him; but at no hand to be immerged and principally

employed in the affairs of the world: what cannot be avoided, and what is of good report, and what he is obliged to by any personal or collateral duty, that he may do, but no more. Ever remembering the saying of our blessed Lord, "In the world, ye shall have trouble; but in me, ye shall have peace:" and consider this also, which is a great truth,—that every degree of love to the world, is so much taken from the love of God.

12. Be no otherwise solicitous of your fame and reputation, but by doing your duty well and wisely: in other things refer yourself to God: but if you meet with evil tongues, be careful that you bear reproaches sweetly and temperately.

13. Remember that no minister can govern his people well, and prosperously, unless himself hath learned humbly and cheerfully to obey his superior. For every minister should be like the good centurion in the gospel: "himself is under authority, and he hath people under him."

14. Be sure, in all your words and actions, to preserve Christian simplicity and ingenuity; to do to others, as you would be done unto yourself; and never to speak what you do not think. Trust to truth, rather than to your memory; for this may fail you, that will never.

15. Pray much and very fervently, for all your parishioners, and all men that belong to you, and all that belong to God; but especially for the conversion of souls: and be very zealous for nothing, but for God's glory, and the salvation of the world, and particularly of your charges: ever remembering, that you are by God appointed as the ministers of prayer, and the ministers of good things, to pray for all the world, and to heal all the world, as far as you are able.

16. Every minister must learn and practise patience, that by bearing all adversity meekly, and humbly, and cheerfully, and by doing all his duty with unwearied industry, with great courage, constancy, and Christian magnanimity, he may the better assist his people in the bearing of their crosses, and overcoming their difficulties.

17. He that is holy, let him be holy still, and still more holy; and never think he hath done his work, till all be finished by perseverance, and the measures of perfection in a holy life, and a holy death: but, at no hand, must he mag-

nify himself by vain separations from others, or despising them that are not so holy.

II.—*Of Prudence required in Ministers.*

18. Remember, that discretion is the mistress of all graces; and humility is the greatest of all miracles: and without this, all graces perish to a man's self; and without that, all graces are useless unto others.

19. Let no minister be governed by the opinion of his people, and destroy his duty, by unreasonable compliance with their humours; lest, as the bishop of Granada told the governors of Leria and Patti, 'Like silly animals they take burdens upon their backs at the pleasure of the multitude, which they neither can retain with prudence, nor shake off with safety.'

20. Let not the reverence of any man cause you to sin against God; but in the matter of souls, being well advised, be bold and confident; but abate nothing of the honour of God, or the just measures of your duty, to satisfy the importunity of any man whatsoever, and God will bear you out.

21. When you teach your people any part of their duty, as in paying their debts, their tithes, and offerings, in giving due reverence and religious regards, diminish nothing of admonition in these particulars, and the like, though they object, that you speak for yourselves, and in your own cases. For counsel is not the worse, but the better, if it be profitable both to him that gives, and to him that takes it. Only do it in simplicity, and principally intend the good of their souls.

22. In taking accounts of the good lives of yourselves or others, take your measures by the express words of Scripture; and next to them estimate them by their proportion and compliance with the public measures, with the laws of the nation, ecclesiastical and civil, and by the rules of fame, of public honesty, and good report; and, last of all, by their observation of the ordinances and exterior parts of religion.

23. Be not satisfied, when you have done a good work,

unless you have also done it well: and when you have, then be careful that vain-glory, partiality, self-conceit, or any other folly or indiscretion, snatch it not out of your hand, and cheat you of the reward.

24. Be careful so to order yourself, that you fall not into temptation and folly in the presence of any of your charges; and especially that you fall not into chidings and intemperate talkings, and sudden and violent expressions.—Never be a party in clamours and scoldings, lest your calling become useless, and your person contemptible: ever remembering that, if you cheaply and lightly be engaged in such low usages with any person, that person is likely to be lost from all possibility of receiving much good from your ministry.

III.—*The Rules and Measures of Government to be used by Ministers in their respective Cures.*

25. Use no violence to any man, to bring him to your opinion; but by the word of your proper ministry, by demonstrations of the Spirit, by rational discourses, by excellent examples, constrain them to come in: and for other things they are to be permitted to their own liberty, to the measures of the laws, and the conduct of their governors.

26. Suffer no quarrel in your parish, and speedily suppress it when it is begun: and though all wise men will abstain from interposing in other men's affairs, and especially in matters of interest, which men love too well; yet it is your duty here to interpose, by persuading them to friendships, reconcilements, moderate prosecutions of their pretences; and by all means you prudently can, to bring them to peace and brotherly kindness.

27. Suffer no houses of debauchery, of drunkenness, or lust, in your parishes; but implore the assistance of authority for the suppressing of all such meeting-places and nurseries of impiety: and as for places of public entertainment, take care that they observe the rules of Christian piety, and the allowed measures of laws.

28. If there be any Papists or sectaries in your parishes, neglect not frequently to confer with them in the spirit of

meekness, and by the importunity of wise discourses seeking to gain them. But stir up no violences against them; but leave them (if they be incurable) to the wise and merciful disposition of the laws.

29. Receive not the people to doubtful disputations: and let no names of sects or differing religions be kept up amongst you, to the disturbance of the public peace and private charity: and teach not the people to estimate their piety by their distance from any opinion, but by their faith in Christ, their obedience to God and the laws, and their love to all Christian people, even though they be deceived.

30. Think no man considerable upon the point or pretence of a tender conscience, unless he live a good life, and in all things endeavour to approve himself void of offence both towards God and man. But if he be an humble person, modest and inquiring, apt to learn and desirous of information; if he seeks for it in all ways reasonable and pious, and is obedient to laws, then take care of him, use him tenderly, persuade him meekly, reprove him gently, and deal mercifully with him, till God shall reveal that also unto him, in which his unavoidable trouble and his temptation lie.

31. Mark them that cause divisions among you, and avoid them: for such persons are by the Scripture called "scandals[q]," in the abstract; they are offenders and offences too. But if any man have an opinion, let him have it to himself, till he can be cured of his disease by time, and counsel, and gentle usages. But if he separates from the church, or gathers a congregation, he is proud, and is fallen from the communion of saints, and the unity of the catholic church.

32. He that observes any of his people to be zealous, let him be careful to conduct that zeal into such channels, where there is least danger of inconveniency; let him employ it in something that is good; let it be pressed to fight against sin. For zeal is like a cancer in the breast; feed it with good flesh, or it will devour the heart.

33. Strive to get the love of the congregation; but let it not degenerate into popularity. Cause them to love you and revere you; to love with religion, not for your compliance; for the good you do them, not for that you please them.

[q] Σκάνδαλα παρὰ τὴν διδαχήν. Rom. xvi. 17.

Get their love by doing your duty, but not by omitting or spoiling any part of it: ever remembering the severe words of our blessed Saviour, "Woe be to you, when all men speak well of you."

34. Suffer not the common people to prattle about religion and questions; but to speak little, to be swift to hear, and slow to speak; that they learn to do good works for necessary uses, that they work with their hands, that they may have wherewithal to give to them that need; that they "study to be quiet, and learn to do their own business."

35. Let every minister take care, that he call upon his charge, that they order themselves so, that they leave no void spaces of their time, but that every part of it be filled with useful or innocent employment. For where there is a space without business, that space is the proper time for danger and temptation; and no man is more miserable than he, that knows not how to spend his time.

36. Fear no man's person in the doing of your duty wisely, and according to the laws: remembering always, that a servant of God can no more be hurt by all the powers of wickedness, than by the noise of a fly's wing, or the chirping of a sparrow. Brethren, do well for yourselves: do well for yourselves, as long as you have time; you know not how soon death will come.

37. Entertain no persons into your assemblies from other parishes, unless upon great occasion, or in the destitution of a minister, or by contingency and seldom visits, or with leave: lest the labour of thy brother be discouraged, and thyself be thought to preach Christ out of envy, and not of good-will.

38. Never appeal to the judgment of the people in matters of controversy; teach them obedience, not arrogancy; teach them to be humble, not crafty. For, without the aid of false guides, you will find some of them of themselves apt enough to be troublesome: and a question put into their heads, and a power of judging into their hands, is a putting it to their choice, whether you shall be troubled by them this week or the next; for much longer you cannot escape.

39. Let no minister of a parish introduce any ceremony, rites, or gestures, though with some seeming piety and devotion, but what are commanded by the church, and esta-

blished by law: and let these also be wisely and usefully explicated to the people, that they may understand the reasons and measures of obedience; but let there be no more introduced, lest the people be burdened unnecessarily, and tempted or divided.

IV.—*Rules and Advices concerning Preaching.*

40. Let every minister be diligent in preaching the word of God, according to the ability that God gives him: ever remembering, that to minister God's word unto the people is the one half of his great office and employment.

41. Let every minister be careful, that what he delivers, be indeed the word of God: that his sermon be answerable to the text; for this is God's word, the other ought to be according to it; that although in itself it be but the word of man, yet by the purpose, truth, and signification, of it, it may, in a secondary sense, be the word of God.

42. Do not spend your sermons in general and indefinite things, as in exhortations to the people to get Christ, to be united to Christ, and things of the like unlimited signification; but tell them in every duty, what are the measures, what circumstances, what instruments, and what is the particular minute meaning of every general advice. For generals, not explicated, do but fill the people's heads with empty notions, and their mouths with perpetual unintelligible talk: but their hearts remain empty, and themselves are not edified.

43. Let not the humours and inclinations of the people be the measures of your doctrines, but let your doctrines be the measure of their persuasions. Let them know from you, what they ought to do; but if you learn from them, what you ought to teach, you will give but a very ill account, at the day of judgment, of the souls committed to you. He that receives from the people, what he shall teach them, is like a nurse that asks of her child, what physic she shall give him.

44. Every minister, in reproofs of sin and sinners, ought to concern himself in the faults of them that are present, but

not of the absent; not in reproof of the times: for this can serve no end but of faction and sedition, public murmur and private discontent; besides this, it does nothing but amuse the people in the faults of others, teaching them to revile their betters, and neglect the dangers of their own souls.

45. As it looks like flattery and design to preach nothing before magistrates but the duty of their people and their own eminency; so it is the beginning of mutiny to preach to the people the duty of their superiors and supreme; it can neither come from a good principle, nor tend to a good end. Every minister ought to preach to his parish, and urge their duty: St. John the Baptist told the soldiers what the soldiers should do, but troubled not their heads with what was the duty of the scribes and pharisees.

46. In the reproof of sins, be as particular as you please, and spare no man's sin, but meddle with no man's person; neither name any man, nor signify him, neither reproach him, nor make him to be suspected. He that doth otherwise, makes his sermon to be a libel, and the ministry of repentance an instrument of revenge; and, so doing, he shall exasperate the man, but never amend the sinner.

47. Let the business of your sermons be to preach holy life, obedience, peace, love among neighbours, hearty love, to live as the old Christians did, and the new should; to do hurt to no man, to do good to every man: for, in these things, the honour of God consists, and the kingdom of the Lord Jesus.

48. Press those graces most, that do most good, and make the least noise; such as giving privately and forgiving publicly; and prescribe the grace of charity by all the measures of it, which are given by the Apostle[q]; for this grace is not finished by good words, nor yet by good works, but it is a great building, and many materials go to the structure of it. It is worth your study, for it is the fulfilling of the commandments.

49. Because it is impossible that charity should live, unless the lust of the tongue be mortified,—let every minister in his charge be frequent and severe against slanderers, detractors, and backbiters; for the crime of backbiting is the poison of charity; and yet so common, that it is passed into

[q] 1 Cor. xiii.

a proverb, "After a good dinner, let us sit down and backbite our neighbours."

50. Let every minister be careful to observe, and vehement in reproving, those faults of his parishioners, of which the laws cannot, or do not, take cognizance, such as are, many degrees of intemperate drinkings, gluttony, riotous living, expenses above their ability, pride, bragging, lying in ordinary conversation, covetousness, peevishness, and hasty anger, and such-like. For the word of God searches deeper than the laws of men; and many things will be hard to prove by the measures of courts, which are easy enough to be observed by the watchful and diligent eye and ear of the guide of souls.

51. In your sermons to the people, often speak of the four last things, of death and judgment, heaven and hell; of the life and death of Jesus Christ; of God's mercy to repenting sinners, and his severity against the impenitent; of the formidable examples of God's anger poured forth upon rebels, sacrilegious, oppressors of widows and orphans, and all persons guilty of crying sins. These are useful, safe, and profitable; but never run into extravagances and curiosities, nor trouble yourselves or them with mysterious secrets; for there is more laid before you than you can understand; and the whole duty of man is, "to fear God and keep his commandments." Speak but very little of the secret and high things of God, but as much as you can, of the lowness and humility of Christ.

52. Be not hasty in pronouncing damnation against any man or party in a matter of disputation. It is enough that you reprove an error; but what shall be the sentence against it at the day of judgment, thou knowest not; and therefore pray for the erring person, and reprove him, but leave the sentence to his Judge.

53. Let your sermons teach the duty of all states of men to whom you speak; and particularly take care of servants and hirelings, merchants and tradesmen, that they be not unskilful, nor unadmonished in their respective duties; and, in all things, speak usefully and affectionately; for, by this means, you will provide for all men's needs, both for them that sin by reason of their little understanding, and them that sin because they have evil, dull, or depraved affections.

54. In your sermons and discourses of religion, use primitive, known, and accustomed words, and affect not new, fantastical, or schismatical terms. Let the Sunday-festival be called the Lord's day; and pretend no fears from the common use of words amongst Christians. For they that make a business of the words of common use, and reform religion by introducing a new word, intend to make a change but no amendment; they spend themselves in trifles, like the barren turf that sends forth no medicinable herbs, but store of mushrooms; and they give a demonstration, that they are either impertinent people, or else of a querulous nature; and that they are ready to disturb the church, if they could find occasion.

55. Let every minister, in his charge, as much as he can, endeavour to destroy all popular errors and evil principles taken up by his people, or others with whom they converse; especially those that directly oppose the indispensable necessity of a holy life.—Let him endeavour to understand, in what true and useful sense Christ's active obedienceis imputed to us; let him make his people fear the deferring of their repentance, and putting it off to their death-bed; let him explicate the nature of faith, so that it be an active and quickening principle of charity; let him, as much as he may, take from them all confidences, that slacken their obedience and diligence; let him teach them to impute all their sins to their own follies and evil choice, and so build them up in a most holy faith to a holy life; ever remembering, that, in all ages, it hath been the greatest artifice of Satan to hinder the increase of Christ's kingdom, by destroying those things in which it does consist, viz. peace and righteousness, holiness and mortification.

56. Every minister ought to be careful, that he never expound Scriptures in public, contrary to the known sense of the catholic church, and particularly of the churches of England and Ireland, nor introduce any doctrine against any of the four first general councils; for these, as they are measures of truth, so also of necessity; that is, as they are safe, so they are sufficient; and besides what is taught by these, no matter of belief is necessary to salvation.

57. Let no preacher bring before the people, in his sermons or discourses, the arguments of great and dangerous

heresies, though with a purpose to confute them; for they will much easier retain the objection than understand the answer.

58. Let not the preacher make an article of faith to be a matter of dispute; but teach it with plainness and simplicity, and confirm it with easy arguments and plain words of Scripture, but without objection; let them be taught to believe, but not to argue; lest, if the arguments meet with a scrupulous person, it rather shake the foundation by curious inquiry, than establish it by arguments too hard.

59. Let the preacher be careful that, in his sermons, he use no light, immodest, or ridiculous expressions, but what is wise, grave, useful, and for edification; that, when the preacher brings truth and gravity, the people may attend with fear and reverence.

60. Let no preacher envy any man, that hath a greater audience, or more fame in preaching than himself; let him not detract from him or lessen his reputation directly or indirectly: for he that cannot be even with his brother but by pulling him down, is but a dwarf still; and no man is the better for making his brother worse. In all things desire that Christ's kingdom may be advanced; and rejoice that he is served, whoever be the minister; that if you cannot have the fame of a great preacher, yet you may have the reward of being a good man; but it is hard to miss both.

61. Let every preacher in his parish take care to explicate to the people the mysteries of the great festivals, as of Christmas, Easter, Ascension-day, Whitsunday, Trinity-Sunday, the annunciation of the blessed Virgin Mary; because these feasts, containing in them the great fundamentals of our faith, will, with most advantage, convey the mysteries to the people, and fix them in their memories, by the solemnity and circumstances of the day.

62. In all your sermons and discourses, speak nothing of God but what is honourable and glorious; and impute not to him such things, the consequents of which a wise and good man will not own: never suppose him to be author of sin, or the procurer of our damnation. For "God cannot be tempted, neither tempteth he any man. God is true, and every man a liar."

63. Let no preacher compare one ordinance with another;

as prayer with preaching, to the disparagement of either; but use both in their proper seasons, and according to appointed order.

64. Let no man preach for the praise of men: but if you meet it, instantly watch and stand upon your guard, and pray against your own vanity; and, by an express act of acknowledgment and adoration, return the praise to God. Remember, that Herod was, for the omission of this, smitten by an angel; and do thou tremble, fearing lest the judgment of God be otherwise than the sentence of the people.

V.—*Rules and Advices concerning Catechism.*

65. EVERY minister is bound, upon every Lord's day, before evening prayer, to instruct all young people in the Creed, the Lord's prayer, the ten commandments, and the doctrine of the sacraments, as they are set down and explicated in the church-catechism.

66. Let a bell be tolled, when the catechising is to begin, that all who desire it, may be present; but let all the more ignorant and uninstructed part of the people, whether they be old or young, be required to be present: that no person in your parishes be ignorant in the foundations of religion: ever remembering, that if, in these things, they be unskilful, whatever is taught besides, is like a house built upon the sand.

67. Let every minister teach his people the use, practice, methods, and benefits, of meditation or mental prayer. Let them draw out for them helps and rules for their assistance in it; and furnish them with materials, concerning the life and death of the ever-blessed Jesus, the greatness of God, our own meanness, the dreadful sound of the last trumpet, the infinite event of the two last sentences at doomsday: let them be taught to consider what they have been, what they are, and what they shall be; and above all things what are the issues of eternity; glories never to cease, pains never to be ended.

68. Let every minister exhort his people to a frequent confession of their sins, and a declaration of the state of their

souls; to a conversation with their minister in spiritual things, to an inquiry concerning all the parts of their duty: for by preaching, and catechising, and private intercourse, all the needs of souls can best be served; but by preaching alone, they cannot.

69. Let the people be exhorted to keep fasting-days, and the feasts of the church; according to their respective capacities; so it be done without burden to them, and without becoming a snare; that is, that upon the account of religion, and holy desires to please God, they spend some time in religion, besides the Lord's day. —But be very careful that the Lord's day be kept religiously, according to the severest measures of the church, and the commands of authority: ever remembering, that, as they give but little testimony of repentance and mortification, who never fast; so they give but small evidence of their joy in God and religion, who are unwilling solemnly to partake of the public and religious joys of the Christian church.

70. Let every minister be diligent in exhorting all parents and masters to send their children and servants to the bishop at the visitation, or other solemn times of his coming to them, that they may be confirmed.—And let him also take care that all young persons may, by understanding the principles of religion, their vow of baptism, the excellency of Christian religion, the necessity and advantages of it, and of living according to it, be fitted and disposed, and accordingly by them presented to the bishop, that he may pray over them, and invocate the Holy Spirit, and minister the holy rite of confirmation.

VI.—*Rules and Advices concerning the Visitation of the Sick.*

71. Every minister ought to be careful in visiting all the sick and afflicted persons of his parish: ever remembering, that as the priest's lips are to preserve knowledge, so it is his duty to minister a word of comfort in the time of need.

72. A minister must not stay, till he be sent for; but, of his own accord and care, go to them, to examine them, to exhort them to perfect their repentance, to strengthen their faith, to encourage their patience, to persuade them to re-

signation, to the renewing of their holy vows, to the love of God, to be reconciled to their neighbours, to make restitution and amends, to confess their sins, to settle their estate, to provide for their charges, to do acts of piety and charity; and above all things, that they take care they do not sin towards the end of their lives. For if repentance on our deathbed seem so very late for the sins of our life,—what time shall be left to repent us of the sins we commit on our deathbed?

73. When you comfort the afflicted, endeavour to bring them to the true love of God; for he that serves God for God's sake, it is almost impossible he should be oppressed with sorrow.

74. In answering the cases of conscience of the sick or afflicted people, consider not who asks, but what he asks; and consult in your answers more with the estate of his soul, than the conveniency of his estate; for no flattery is so fatal as that of the physician or the divine.

75. If the sick person inquires concerning the final estate of his soul, he is to be reproved rather than answered; only he is to be called upon to finish his duty, to do all the good he can in that season, to pray for pardon and acceptance; but you have nothing to do to meddle with passing final sentences; neither cast him down in despair, nor raise him up to vain and unreasonable confidences. But take care that he be not carelessly dismissed.

76. In order to these and many other good purposes, every minister ought frequently to converse with his parishioners; to go to their houses, but always publicly, with witness, and with prudence, lest what is charitably intended, be scandalously reported: and, in all your conversation, be sure to give good example, and, upon all occasions, to give good counsel.

VII.—*Of ministering the Sacraments, public Prayers, and other Duties of Ministers.*

77. Every minister is obliged, publicly or privately, to read the common prayers every day in the week, at morning and evening; and in great towns and populous places conve-

niently inhabited, it must be read in churches, that the daily sacrifice of prayer and thanksgiving may never cease.

78. The minister is to instruct the people, that the baptism of their children ought not to be ordinarily deferred longer than till the next Sunday after the birth of the child; lest importune and unnecessary delay occasion that the child die, before it is dedicated to the service of God and the religion of the Lord Jesus, before it be born again, admitted to the promises of the gospel, and reckoned in the account of the second Adam.

79. Let every minister exhort and press the people to a devout and periodical communion, at the least, three times in the year, at the great festivals: but the devouter sort, and they who have leisure, are to be invited to a frequent communion: and let it be given and received with great reverence.

80. Every minister ought to be well skilled and studied in saying his office, in the rubrics, the canons, the articles, and the homilies, of the church, that he may do his duty readily, discreetly, gravely, and by the public measures of the laws. To which also it is very useful that it be added, that every minister study the ancient canons of the church, especially the penitentials of the eastern and western churches. Let him read good books, such as are approved by public authority; such which are useful, wise, and holy; not the scribblings of unlearned parties, but of men learned, pious, obedient, and disinterested; and among these, such especially which describe duty and good life, which minister to faith and charity, to piety and devotion; cases of conscience, and solid expositions of Scripture. Concerning which, learned and wise persons are to be consulted.

81. Let not a curate of souls trouble himself with any studies, but such which concern his own or his people's duty; such as may enable him to speak well, and to do well; but to meddle not with controversies, but such by which he may be enabled to convince the gainsayers in things, that concern public peace and a good life.

82. Be careful, in all the public administrations of your parish, that the poor be provided for. Think it no shame to beg for Christ's poor members; stir up the people to liberal alms by your word and your example. Let a collection be made

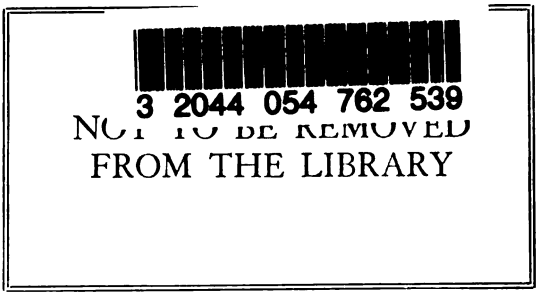
every Lord's day, and upon all solemn meetings, and at every communion; and let the collection be wisely and piously administered: ever remembering, that at the day of judgment nothing shall publicly be proclaimed, but the reward of alms and mercy.

83. Let every minister be sure to lay up a treasure of comforts and advices, to bring forth for every man's need in the day of his trouble; let him study and heap together instruments and advices for the promoting of every virtue, and remedies and arguments against every vice; let him teach his people to make acts of virtue, not only by external exercise, but also in the way of prayer and internal meditation.

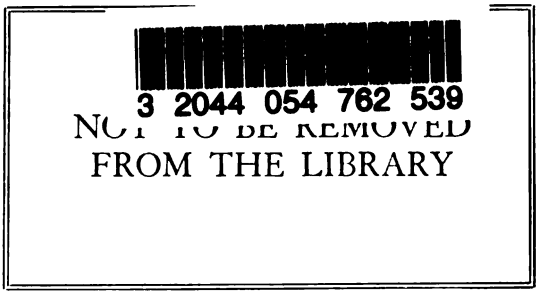
In these and all things else, that concern the minister's duty, if there be difficulty, you are to repair to your bishop for further advice, assistance, and information.

END OF THE FOURTEENTH VOLUME.

Printed by J. F. Dove, St. John's Square.


3 2044 054 762 539
NOT TO BE REMOVED
FROM THE LIBRARY

3 2044 054 762 539
NOT TO BE REMOVED
FROM THE LIBRARY


3 2044 054 762 539
NOT TO BE REMOVED
FROM THE LIBRARY